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Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 177

RIN 3206–AI70

Administrative Claims Under the Federal Tort Claims Act

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations for administrative claims filed under the Federal Tort Claims Act. The final regulations will reflect the changes for filing administrative claims with OPM for the loss of or damage to property, personal injury, or death resulting from the negligent or wrongful act or omission of its employees while acting within the scope of their office or employment.

EFFECTIVE DATE: August 21, 2000.

FOR FURTHER INFORMATION CONTACT: James S. Green, Associate General Counsel, or Gloria Clark, Paralegal Specialist, Office of the General Counsel, (202) 606–1700.

SUPPLEMENTARY INFORMATION: On June 22, 1999, the Office of Personnel Management (OPM) published proposed regulations (64 FR 33326) on the Federal Tort Claims Act. The Federal Tort Claims Act provides that the United States may be held liable for property damage, personal injury, or death caused by the negligent or wrongful act or omission of its employees, while they are acting within the scope of their office or employment. The Federal Tort Claims Act authorizes the head of each Federal agency, or his or her designee, the authority to consider, compromise, and settle any claim for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee while acting within the scope of their office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

The Department of Justice (DOJ) administers the Federal Tort Claims Act for the United States Government. The DOJ has authorized each Federal agency to issue regulations and establish procedures for implementing the Federal Tort Claims Act. The Director of OPM has delegated the responsibility for this function to the General Counsel of OPM. However, any award, compromise, or settlement in excess of $25,000, can be effected only with the prior written approval of the Attorney General.

The final regulations on the Federal Tort Claims Act have been updated and revised in consistency with the DOJ regulations at 28 CFR part 14. In addition, the final regulations will include revisions to reflect the changes for filing administrative claims with OPM and the delegation of authority for this function within OPM by the General Counsel.

During the comment period, OPM did not receive any comments on the proposed regulations.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions), since it only applies to Federal employees and agencies.

List of Subjects in 5 CFR Part 177

Claims.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is revising Part 177 of title 5 of the Code of Federal Regulations as follows:

PART 177—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

Sec.

Authority: 28 U.S.C. 2672; 28 CFR 14.11.

§ 177.101 Scope of regulations.

The regulations in this part apply only to claims presented or filed with the Office of Personnel Management (OPM) under the Federal Tort Claims Act, as amended, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an officer or employee of OPM while acting within the scope of his or her office or employment.

§ 177.102 Administrative claim; when presented; appropriate OPM office.

(a) For purposes of the provisions of 28 U.S.C. 2401(b), 2672, and 2675, a claim is deemed to have been presented when OPM receives from a claimant, his or her authorized agent or legal representative, an executed Standard Form 95 (Claim for Damage, Injury or Death), or other written notification of an incident, accompanied by a claim for money damages stating a sum certain (a specific dollar amount) for injury to or loss of property, personal injury, or death alleged to have occurred as a result of the incident.

(b) All claims filed under the Federal Tort Claims Act as a result of the alleged negligence or wrongdoing of OPM or its employees will be mailed or delivered to the Office of the General Counsel, United States Office of Personnel Management, 1900 E Street NW, Washington, DC 20415–1300.

(c) A claim must be presented to the Federal agency whose activities gave rise to the claim. A claim that should have been presented to OPM, but was mistakenly addressed to or filed with another Federal agency, is presented to OPM, as required by 28 U.S.C. 2401(b), as of the date the claim is received by OPM. When a claim is mistakenly presented to OPM, OPM will transfer the claim to the appropriate Federal agency, if ascertainable, and advise the

claimant of the transfer, or return the claim to the claimant.

(d) A claimant whose claim arises from an incident involving OPM and one or more other Federal agencies, will identify each agency to which the claim has been submitted at the time the claim is presented to OPM. OPM will contact all other affected Federal agencies in order to designate the single agency that will investigate and decide the merits of the claim. In the event a designation cannot be agreed upon by the affected agencies, the Department of Justice will be consulted and will designate an agency to investigate and determine the merits of the claim. The designated agency will notify the claimant that all future correspondence concerning the claim must be directed to that Federal agency. All involved Federal agencies may agree to conduct their own administrative reviews and to coordinate the results, or to have the investigation conducted by the designated Federal agency. But, in either event, the designated agency will be responsible for the final determination of the claim.

(e) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments must be in writing and signed by the claimant or his or her authorized agent or legal representative. Upon timely filing of an amendment to a pending claim, OPM will have 6 months in which to make a final disposition of the claim as amended and claimant's option under 28 U.S.C. 2675 (a) will not accrue until 6 months after the filing of an amendment.

§ 177.103 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property, his or her authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person, his or her authorized agent or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert a claim under the applicable State law.

(d) A claim for loss totally compensated by an insurer with the rights to subrogate may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights to subrogate may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. When an insurer presents a claim asserting the rights to subrogate, he or she will present with the claim appropriate evidence that he or she has the rights to subrogate.

(e) A claim presented by an agent or legal representative must be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 177.104 Investigations.

OPM may investigate, or may request any other Federal agency to investigate, a claim filed under this part.

§ 177.105 Administrative claim; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full names, addresses, birth date, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support from the decedent at the time of death.

(4) Degree of support afforded by the decedent to each survivor dependent on him or her for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering before death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injuries and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by OPM or another Federal agency. On written request, OPM will make available to the claimant a copy of the report of the examining physician employed by the United States, provided the claimant has furnished OPM with the report referred to in the first sentence of this subparagraph. In addition, the claimant must have made or agrees to make available to OPM all other physician's reports previously or thereafter made of the physical or mental condition that is the subject matter of his or her claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full-or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for

the injury to or loss of property or the damages claimed.

§ 177.106 Authority to adjust, determine, compromise, and settle.

(a) The General Counsel of OPM, or his or her designee, is delegated authority to consider, ascertain, adjust, determine, compromise, and settle claims under the provisions of 28 U.S.C. 2672, and this part. The General Counsel, in his or her discretion, has the authority to further delegate the responsibility for adjudicating, considering, adjusting, compromising, and settling any claim submitted under the provisions of 28 U.S.C. 2672, and this part, that is based on the alleged negligence or wrongful act or omission of an OPM employee, with the exception of claims involving personal injury. All claims involving personal injury will be adjudicated, considered, adjusted, compromised and settled by the Office of the General Counsel.

§ 177.107 Limitations on authority.

(a) An award, compromise, or settlement of a claim under 28 U.S.C. 2672, and this part, in excess of $25,000 can be effected only with the prior written approval of the Attorney General or his or her designee. For purposes of this paragraph, a principal claim and any derivative or subrogated claim will be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled under this part, only after consultation with the Department of Justice when, in the opinion of the General Counsel of OPM, or his or her designee:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and OPM is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled under 28 U.S.C. 2672, and this part, only after consultation with the Department of Justice when, OPM is informed or is otherwise aware that the United States or an employee, agent, or cost-type contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 177.108 Referral to Department of Justice.

When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under § 177.107, the written referral or request will be transmitted to the Department of Justice by the General Counsel of OPM or his or her designee.

§ 177.109 Final denial of claim.

Final denial of an administrative claim must be in writing and sent to the claimant, his or her attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial. But, it must include a statement that, if the claimant is dissatisfied with the OPM action, he or she may file suit in an appropriate United States district court not later than 6 months after the date of mailing of the notification.

§ 177.110 Action on approved claim.

(a) Payment of a claim approved under this part is contingent on claimant's execution of a Standard Form 95 (Claim for Damage, Injury or Death); a claims settlement agreement; and a Standard Form 1145 (Voucher for Payment), as appropriate. When a claimant is represented by an attorney, the Voucher for Payment will designate both the claimant and his or her attorney as payees, and the check will be delivered to the attorney, whose address is to appear on the Voucher for Payment.

(b) Acceptance by the claimant, his or her agent, or legal representative, of an award, compromise, or settlement made under 28 U.S.C. 2672 or 28 U.S.C. 2677 is final and conclusive on the claimant, his or her agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any claim against the United States and against any employee of the Federal Government whose act or omission gave rise to the claim, by reason of the same subject matter.

[FR Doc. 00–18344 Filed 7–19–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 98–045–3]

Veterinary Services User Fees; Pet Food Facility Inspection and Approval Fees; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error in the rule portion of a final rule concerning user fees for the inspection and approval of pet food manufacturing, rendering, blending, digest, and spraying and drying facilities. The rule replaced hourly rate user fees for those services with flat rate user fees. The final rule was published in the **Federal Register** on June 20, 2000 (65 FR 38179–38182, Docket No. 98–045–2), and is effective on July 20, 2000.

EFFECTIVE DATE: July 20, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Service Enhancement Unit, MRPBS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION: On June 20, 2000, we published in the **Federal Register** a final rule that amended the user fee regulations to replace the hourly rate user fees for the inspection and approval of pet food manufacturing, rendering, blending, digest, and spraying and drying facilities with flat rate user fees that would cover the cost of all inspections required for annual approval.

In the rule portion of the final rule, the flat rate user fee for the renewal of approval of pet food spraying and drying facilities was listed as $162.00 for all inspections required during the year. As explained in the **SUPPLEMENTARY INFORMATION** section of the final rule, the correct flat rate user fee for this service is $162.50. This document corrects that error.

In Docket No. 98–045–2, published on June 20, 2000 (65 FR 38179–38182), make the following correction: On page 38181, in § 130.11, in the table, under the column User Fee, correct ''$162.00'' to read ''$162.50''.

Done in Washington, DC, this 14th day of July 2000.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–18366 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 590

[Docket No. 99–012F]

RIN 0583–AC71

Fee Increase for Egg Products Inspection—Year 2000

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is increasing the fees that it charges egg product plants for providing overtime and holiday inspection services. These fee increases reflect the total cost of inspection, including the national and locality pay raise for Federal employees, inflation, applicable overhead costs, and other inspection costs.

EFFECTIVE DATE: July 30, 2000.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW., Washington, DC 20250, (202) 720–5627, fax number (202) 690–0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130-S, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720–3552.

SUPPLEMENTARY INFORMATION:

Background

The Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*) provides for the inspection of egg products by Federal inspectors at official plants. Federal inspection protects the health and welfare of consumers by ensuring that egg products are wholesome, not adulterated, and properly labeled and packaged.

The Agricultural Marketing Service (AMS) was responsible for administering the EPIA from its enactment in 1970 until 1995. At that time, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354; 7 U.S.C. 6981) delegated food safety responsibilities to the Under Secretary of Agriculture for Food Safety. The Department subsequently revised its regulations to transfer egg product inspection functions under the EPIA to FSIS. AMS retained only those functions related to their shell egg surveillance program. The regulations governing the inspection of eggs and egg products (9 CFR Part 590) were transferred to Part 9 of the Code of Federal Regulations on December 31, 1998 (63 FR 72352).

FSIS bears the cost of mandatory inspection. However, the EPIA specifies that plants pay for overtime and holiday inspection services (21 U.S.C. 1053). There has not been a change in overtime and holiday fees for egg products inspection services since the transfer of program functions from AMS to FSIS in May 1995. AMS established and implemented the current fees in November 1994. These fees reflect only the direct costs of inspection at that time and are insufficient to recover FSIS's current costs for delivery of inspection service.

In order to recover the full cost of inspection, FSIS is increasing its rates to charge overtime and holiday fees for egg products inspection services that are the same as overtime and holiday fees for meat and poultry inspection. The Agency is making the fees for meat, poultry, and egg inspection services the same because these services are indistinguishable from a cost standpoint. Although these fee increases are large, they reflect the total cost of inspection, including national and locality pay raises for Federal employees, inflation, applicable overhead costs, and other inspection costs. The current and new FSIS overtime and holiday inspection services fees for egg products plants are reported in Table 1.

TABLE 1.—CURRENT AND NEW FEES FOR OVERTIME AND HOLIDAY INSPECTION SERVICES FOR EGG PRODUCTS PLANTS

Service ($/hr.)	Current	New
Overtime Inspection Services	26.16	39.76
Holiday Inspection Services	17.44	39.76

Table 2 shows salary, overhead, and other inspection costs for Fiscal Year (FY) 1998, and the projected added inflation and Federal pay increases for FY 1999 and FY 2000 used to obtain the total amount from which the new rates are derived. These costs are the total costs for meat, poultry, and egg products inspection services. Overhead costs are the indirect costs for administration and management associated with providing inspection services. Other inspection costs include direct costs for travel and laboratory support costs associated with inspection services.

TABLE 2.—COMPONENTS OF FEE INCREASE—AGENCY TOTAL INSPECTION COSTS

Component	$Thousand	Percent
Direct Salaries	57,242	56.86
Inflation and Pay Increase	7,951	7.90
Overhead	22,197	22.05
Other Inspection Costs (Travel and Laboratory Support)	13,282	13.19
Total	100,672	100

Beginning with the Federal fiscal year 2001, FSIS intends to annually review its fees for overtime and holiday egg products inspection services, as well as fees for meat and poultry inspection services, to allow for necessary adjustments on a fiscal year basis. The fiscal year approach is an accepted accounting principle that will facilitate more consistent and timely proposals to adjust both fees and assist the Agency and affected industry in planning for these fee adjustments. The Agency intends to explore the possibility of publishing a three to five year plan of fee rate adjustments based on estimates of cost escalation.

FSIS loses from $80,000 to $100,000 in revenue for every two-week period that the final rule is delayed in being published. To recover the increased costs in an expeditious manner, the Administrator has determined that these amendments should be effective less than 30 days after publication in the **Federal Register**. Therefore, the increases in fees will be effective July 30, 2000.

Proposed Rule and Comments

On March 3, 2000, FSIS published a proposed rule (65 FR 11486) to increase the fees that it charges egg products plants for providing overtime and holiday inspection services. FSIS initially provided 60 days for public comment, ending on May 2, 2000. In response to a request for more time to

comment to allow for the development of supporting data related to the impact of the proposed rule, FSIS extended the comment period for 30 days, until June 1, 2000. The Agency received no additional comments during the extended comment period.

The Agency received two comments from industry organizations opposing the increase in fees. The Agency addresses their specific objections.

Comment: Commenters opposed the increase in fees because it is a significant increase.

Response: The Agency agrees that the increase in overtime and holiday inspection fees for egg products inspection services is significant. However, as the Agency stated in the proposed rule, the Agency has not increased these fees for several years despite the escalation of the cost of performing inspection. FSIS is required to recover the full costs of overtime and holiday inspection services.

Comment: A commenter stated that the increase in fees would seriously damage the profitability of most egg processing firms operating on a contractual basis of sales with its customers for FY 2000.

Response: The commenter included no data to characterize the extent of the perceived impact. The increase in fees provided for by this final rule will not be effective until late in FY 2000. Therefore, any impact on the profitability of egg processing firms operating on a contractual basis of sales with its customers for FY 2000 should be minimized. Regardless, as was mentioned earlier, FSIS is required to recover the full costs of overtime and holiday inspection services.

Comment: One commenter asserted that nearly half of the fee is administrative expense, which, the commenter stated, is an unacceptable Federal administrative inefficiency.

Response: ''Overhead'' accounts for 22.05% of the cost of the fees and the ''Other Inspection Costs'' category makes up 13.19% of the cost of the fees. ''Other Inspection Costs'' include expenditures for travel and laboratory support, both of which are a necessary expense for inspection services.

Comment: A commenter disagreed with the Agency's assessment that the fee increases will amount to a $0.0003 increase in cost per pound of product. The commenter calculated that costs per pound will be 33% greater than the Agency estimated.

Response: Since the commenter did not submit any data to verify or support its claim, the Agency has no reason to change its original estimate.

Comment: One commenter recommended phasing in the fee increases over a period of a minimum of three to five years.

Response: FSIS cannot phase-in the cost increase because it is obliged by law to recover the full cost of providing overtime and holiday inspection services. The Agency currently charges meat and poultry establishments the same fees for overtime and holiday inspection services that are being required for egg products plants by this rule. The Agency derived its new fee by considering costs for meat, poultry, and egg products inspection services.

Comment: A commenter stated that the yearly increase of costs of $13,700 per firm, ''would be devastating to many small, family-owned poultry operations.''

Response: FSIS had estimated in the proposed rule that the proposed overtime and holiday inspection services fee increases would result in an increase in costs per firm of $13,700 for FY 2000. The $13,700 figure is an average cost estimate. As mentioned later in the preamble, small plants in the egg products industry will not be affected adversely by the fee increases because these increases represent only a small increase in the costs currently borne by those plants that elect to use overtime and holiday services. Some firms may not avail themselves of overtime or holiday inspection services or use them only a very limited basis. Therefore, their additional expenses would be negligible.

Summary of the Final Rule

FSIS is amending § 590.126 of 9 CFR to increase the fee for providing overtime inspection services from $26.16 per hour per program employee to $39.76 per hour per program employee. For holiday services, FSIS is amending § 590.128(a) to increase the fee from $17.44 per hour per program employee to $39.76 per hour per program employee.

The Agricultural Marketing Act of 1946, as amended, provides the authority for collection of fees approximately equal to the cost of voluntary egg grading programs. AMS retains the responsibility of changing the fees set out in the regulations governing the grading of eggs (7 CFR part 55). FSIS is amending 9 CFR 590.130 to delete the reference to regulations governing the collection of fees associated with the voluntary grading of eggs.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this action will not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities. There are 73 egg products firms, and all but 5 would be classified as small on the basis of the Small Business Administration size definitions (having under 100 employees in a stand-alone establishment or under 500 employees in an in-line establishment).

Small plants in the egg products industry will not be affected adversely by the fee increases provided for because these increases reflect only a small increase in the costs currently borne by those entities that elect to use overtime and holiday inspection services. These holiday and overtime inspection services are generally sought by plants with larger production volume, greater complexity and diversity in the products they produce, and the need for on time delivery of large volumes of product by their clients—generally large commercial or institutional establishments. Plants with smaller production are unlikely to use a significant amount of overtime and holiday inspection services. Plants seeking FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services would be less than the incremental expected benefits of additional revenues they would realize from additional production.

Economic Effects

Under the new fees, the Agency would expect to collect nearly $2.5 million in revenues in a year, compared to the $1.5 million under current fees. The total volume of U.S. egg product production in 1998 was 3.2 billion pounds. The increase in cost per pound of product associated with the overtime and holiday fee increase is $0.0003. Even in a competitive industry like egg products, this amount of increase in annual production costs, if firms choose to use the service, would have an insignificant impact on profits and prices. The increase in costs per firm would be about $13,700. On average, this would not be a significant increase in annual production costs given the volume of production. Egg product

firms produce an average of 44.3 million pounds of product annually.

TABLE 3.—REVENUES FOR INSPECTION SERVICES

[In thousands]

Current	Proposed
$1,482	$2,460

The industry is also likely to pass through a significant portion of the fee increase to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to significantly reduce demand for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Huang, Kao S., A Complete System of U.S. Demand for Food. USDA/ERS Technical Bulletin No. 1821, 1993, p.24). Because of this inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share due to an increase in inspection fees.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 590.320 through 590.370 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce and provide copies of this **Federal Register** publication in the *FSIS Constituent Update.* FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible. For more information or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects in 9 CFR Part 590

Eggs and egg products, Exports, Food labeling, Imports.

For the reasons stated in the preamble, 9 CFR part 590 is amended as follows:

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

1. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

2. Sections 590.126 and 590.128(a) are revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $39.76.

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $39.76.

* * * * *

§ 590.130 [Amended]

3. Section 590.130 is amended by removing the last sentence of the section.

Done in Washington, DC, on: July 13, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–18254 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–DM–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700 and 702

Prompt Corrective Action; Risk-Based Net Worth Requirement

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: In 1998, the Federal Credit Union Act was amended to require NCUA to adopt a system of prompt corrective action for federally-insured credit unions. As a separate component of that system, NCUA is required to define credit unions that are ''complex'' by reason of their portfolio of assets and liabilities and to develop a risk-based net worth requirement to apply to such credit unions in the ''well capitalized'' or ''adequately capitalized'' statutory net worth categories. The NCUA Board issued a proposed rule consisting of a three-step process for defining a ''complex'' credit union and for determining its risk-based net worth requirement under either of two methods. As revised to reflect public comments and to incorporate other improvements, the final rule narrows the definition of ''complex'' by minimum asset size and minimum risk-based net worth requirement; modifies the composition of certain risk portfolios; adjusts certain corresponding thresholds and risk weightings; and adds a risk mitigation credit.

DATES: Effective January 1, 2001.

FOR FURTHER INFORMATION CONTACT: *Technical:* Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, telephone 703/518–6360; *Legal:* Steven W. Widerman, Trial Attorney, Office of General Counsel, telephone 703/518–6557, at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

SUPPLEMENTARY INFORMATION:

A. Background

1. The Credit Union Membership Access Act

On August 7, 1998, Congress enacted the Credit Union Membership Access Act, Pub. L. No. 105–219, 112 Stat. 913 (1998). Section 301 of the statute added a new section 216 to the Federal Credit

Union Act, 12 U.S.C. 1790d (hereinafter referred to as ''CUMAA'' or ''the statute'' and cited as ''§ 1790d''). Section 1790d requires the NCUA Board to adopt by regulation a system of ''prompt corrective action'' (''PCA'') to commence when a federally-insured ''natural person'' credit union becomes undercapitalized. The statute designated three principal components of PCA: (1) a framework of mandatory actions prescribed by statute, § 1790d(c), (e), (f) and (g), and discretionary actions developed by NCUA, which are indexed to five statutory net worth categories and their corresponding net worth ratios, § 1790d(c); (2) an alternative system of PCA to be developed by NCUA for credit unions that CUMAA defines as ''new,'' § 1790d(a)(2); and (3) a risk-based net worth ratio to apply to credit unions that NCUA defines as ''complex.'' § 1790d(d). The third component alone is the subject of this final rule.

2. New Part 702—Prompt Corrective Action

Following the statutory mandate, the NCUA Board adopted as a final rule (''part 702'') a comprehensive system of PCA consisting of a framework of mandatory and discretionary supervisory actions and an alternative system of PCA to apply to ''new'' credit unions. 12 C.F.R. 702 *et seq.* (2000); 65 FR 8560 (February 18, 2000).[1] For credit unions that do not meet the statutory definition of a ''new'' credit union, part 702 establishes a framework of mandatory and discretionary supervisory actions, indexed to the five net worth categories, and implements statutory conditions triggering conservatorship and liquidation. 12 C.F.R. 702.201—702.206. For credit unions that CUMAA defines as ''new''—those having been in operation less than ten years and having $10 million or less in assets, § 1790d(o)(4)—part 702 establishes a similarly-structured alternative system of PCA that recognizes that ''new'' credit unions initially have no net worth, need reasonable time to accumulate net worth, and must have incentives to ultimately become ''adequately capitalized.'' § 1790d(b)(2)(B). Under part 702, the net worth ratio and category of a credit union, whether ''new'' or not, are determined quarterly. 12 C.F.R. 702.101(a)(1), 702.302(a).

In addition to the substantive components of PCA, an independent appeal process is available to affected credit unions and officials to appeal decisions by NCUA staff imposing certain discretionary supervisory actions, and decisions by the NCUA Board reclassifying a credit union to a lower net worth category on safety and soundness grounds. 12 C.F.R. 747.2001 *et seq.* (2000). Part 702 also prescribes reserving and dividend payment requirements to conform to CUMAA's earnings retention requirement. § 1790d(e); 12 C.F.R. 702.401 *et seq.*

3. Risk-Based Net Worth Requirement

Independently of the general system of PCA in part 702, CUMAA requires NCUA to develop a definition of a ''complex'' credit union based on the risk level of a credit union's portfolio of assets and liabilities, § 1790d(d)(1), and to formulate a risk-based net worth (''RBNW'') requirement to apply to credit unions meeting that definition. The RBNW requirement must ''take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized [6 percent] may not provide adequate protection.'' § 1790d(d)(2). NCUA was encouraged to, ''for example, consider whether the 6 percent requirement provides adequate protection against interest-rate risk and other market risks, credit risk, and the risks posed by contingent liabilities, as well as other relevant risks. The design of the [RBNW] requirement should reflect a reasoned judgment about the actual risks involved.'' S. Rep. No. 193, 105th Cong., 2d Sess. 13 (1998) (S. Rep.).

These specifications reflect the Department of the Treasury's recommendation to Congress to require NCUA to develop a supplemental RBNW requirement ''for larger, more complex credit unions * * * to take account of risks * * * that may exist only for a small subset of credit unions.'' U.S. Dept. of Treasury, *Credit Unions* (1997) at 71.

CUMAA demands that a credit union that meets the definition of ''complex,'' and whose net worth ratio initially places it in either of the ''adequately capitalized'' or ''well capitalized'' net worth categories, must satisfy a separate RBNW requirement, which may exceed the minimum net worth ratio corresponding to its initial category (6 percent and 7 percent, respectively), in order to remain classified in that category.[2] § 1790d(c)(1)(A)(ii) and (c)(1)(B)(ii). A ''well capitalized'' or ''adequately capitalized'' credit union that fails to meet its RBNW requirement is classified by statute in the ''undercapitalized'' net worth category, and will be subject to the mandatory and discretionary supervisory actions applicable to that category. § 1790d(c)(1)(c)(ii).

CUMAA set August 7, 2000, as the deadline for issuing the final rule, and January 1, 2001, as its effective date. CUMAA § 301(d)(2)(B) and (e)(2). Accordingly, the RBNW requirement for credit unions meeting the definition of ''complex'' will first apply on the basis of data in the Call Report due to be filed by quarterly filers on April 23, 2001, reflecting activity in the first quarter of 2001.

4. Rulemaking Process

As directed by CUMAA, NCUA commenced rulemaking by issuing an Advance Notice of Proposed Rulemaking (''ANPR'') which, among other things, both suggested and invited proposed concepts for an RBNW requirement and criteria for defining ''complex.'' CUMAA § 301(d)(2)(A). 63 FR 57938 (October 29, 1998). By the comment deadline of January 27, 1999, NCUA received 34 comment letters from 32 commenters, the majority of which addressed the RBNW requirement.

On February 3, 2000, NCUA issued a proposed rule establishing a three-step process. 65 FR 8597 (February 18, 2000). The first step determined whether a credit union meets the definition of ''complex.'' The second step relied on Call Report data to determine a credit union's RBNW requirement. The final step permitted a credit union to substitute certain alternative calculations that may reduce its RBNW requirement. The proposed rule discussed and reflected comments that NCUA had received in response to the ANPR. 65 FR at 8598–8599.

By the close of the comment period for the proposed rule, April 18, 2000, NCUA received 119 letters submitted by 113 public commenters (a few of whom submitted more than one comment). Comments were received from 42

[1] Except for sections 702.103 through 702.108, which are the subject of this final rule, new part 702 takes effect August 7, 2000, and will first apply on the basis of data in the Call Report due to be filed January 22, 2001, reflecting activity in the fourth quarter of 2000.

[2] The RBNW requirement also indirectly impacts credit unions in the ''undercapitalized'' and lower net worth categories, which are required to operate under an approved net worth restoration plan. The plan must provide the means and a timetable to reach the ''adequately capitalized'' category. § 1790d(f)(5); 12 CFR 702.206(c). However, for ''complex'' credit unions in the ''undercapitalized'' or lower net worth categories, the minimum net worth ratio ''gate'' to that category will be 6 percent or the credit union's RBNW requirement, if higher than 6 percent. In that event, a complex credit union's net worth restoration plan will have to prescribe the steps a credit union will take to reach a higher net worth ratio ''gate'' to that category. *See* 12 CFR 702.206(c)(1)(i)(A).

federal credit unions, 26 state credit unions, 4 corporate credit unions, 21 state credit union leagues, 4 individuals serving as credit union directors, 4 credit union industry trade associations, an association of state credit union supervisors, 2 state financial institution regulators, and a bank which co-sponsors a collective investment fund for credit unions. In addition, comments were received from 2 consultants, 2 accounting firms, and 3 securities dealers and/or advisors, each of which serves credit union clients. A banking industry trade association also commented on the proposed rule.

A preponderance of commenters advocated a minimum asset size as a criterion for defining ''complex,'' and criticized labeling a credit union ''complex'' when its RBNW requirement is 6 percent or less. For the various risk portfolios, commenters generally suggested upward adjustments to the threshold levels and downward adjustments to the corresponding risk weightings; however, most provided no justification or empirical evidence to support the suggested adjustment. The unsupported comments are noted but not discussed in the preamble.[3] The handful of comments urging NCUA to abandon or ignore the purpose and criteria that Congress expressly prescribed for the RBNW requirement, and which NCUA lacks discretion to modify, are neither noted nor discussed in the preamble.[4] All other comments are analyzed generally in section C. below, except for the single banking industry trade association comment, which is addressed separately in section D.2. below.

B. Principal Differences Between Proposed Rule and Final Rule

As revised to incorporate public comments and improvements initiated by NCUA staff, the final rule differs from the proposed rule in the following principal respects:

1. *Applicability of RBNW requirement.* The proposed rule featured a ''four-trigger'' test defining the term ''complex'' according to whether any one of four risk portfolios is exceeded by a corresponding threshold percentage of total assets. The final rule abandons that test in favor of a simple standard of applicability—an RBNW requirement is applicable, and must be met, only if a credit union's total assets exceed $10 million and its RBNW requirement exceeds 6 percent. § 702.103.

2. *Classification and weighting of ''Investments'' by weighted-average life.* For purposes of defining ''complex'' and for calculating a credit union's RBNW requirement, the proposed rule generally identified an investment as long-term if its weighted-average life or next rate adjustment period was greater than three years. The final rule expands the proposed ''Long-term investments'' risk portfolio into a comprehensive ''Investments'' risk portfolio consisting of all investments permitted by law, regardless whether short- or long-term. § 702.104(c). A weighted-average life is specified for each type of credit union investment. § 702.105. When calculating the RBNW requirement, the contents of the ''Investments'' risk portfolio is classified among weighted-average life ''buckets.'' Each bucket then receives a corresponding risk weighting. §§ 702.106(c), 702.107(c). Investments in CUSOs are defined as having a weighted-average life of greater than 1 year, but less than or equal to 3 years, § 702.105(e), and are subsequently risk weighted at 6 percent. § 702.106(c)(2).

3. *Redefinition and zero weighting of ''Low risk assets.''* The proposed ''Low-risk assets'' risk portfolio consisted of cash and cash equivalents and was risk weighted at 3 percent. The final rule moves cash on deposit in financial institutions and cash equivalents (*e.g.,* investments with a maturity of 90 days or less)—which carry low risk—to the ''Investments'' risk portfolio, where they continue to be weighted at 3 percent. § 702.106(c)(1). The ''Low risk assets'' risk portfolio is left to consist exclusively of cash on hand (*e.g.,* coin and currency) and the National Credit Union Share Insurance Fund (''NCUSIF'') deposit. § 702.104(d). Because those assets carry virtually no risk, the final rule reduces the risk weighting of that portfolio to zero. § 702.106(d).

4. *5-year maturity and repricing threshold for ''Long-term real estate loans.''* The proposed ''Long-term real estate loans'' risk portfolio established a minimum maturity and repricing threshold of 3 years. The final rule increases the maturity and repricing threshold to 5 years in order to achieve general parity between consumer and real estate loans. § 702.104(a). This will ensure a risk-weighting consistent with relative economic value exposure for all real estate loans (other than member business loans) that mature or reprice within 5 years, regardless of underlying real estate-related collateral. The 5-year threshold will omit a significant amount of home equity loans from this risk portfolio, yet still capture the majority of real estate loans with above average interest rate risk.

5. *Risk mitigation credit.* For credit unions that do not meet their RBNW requirement under the ''standard calculation'' or by using ''alternative components,'' the final rule introduces a ''risk mitigation credit.'' Under guidelines to be adopted by the NCUA Board, a credit union may apply for a credit to reduce the RBNW requirement to reflect mitigation of credit risk and/or interest rate risk. § 702.108. The NCUA Board may, in its discretion, grant a risk mitigation credit based on quantitative evidence of mitigation.

C. Section-by-Section Analysis of Final Rule

1. Structural Overview

(a) *Three-step process.* The final rule retains in restructured form a three-step process, applicable to all federally-insured credit unions.[5] The first step, reflected in section 702.103, determines whether an RBNW requirement is applicable. The proposed rule defined a credit union as ''complex'' if any one of four ''risk portfolios'' exceed a corresponding ''trigger'' percentage of total assets. 65 FR at 8609. The final rule replaces the four-trigger test with a simple standard of applicability based on minimum asset size ($10 million) and a minimum RBNW requirement (more than 6 percent).

If an RBNW requirement is applicable, the second step, reflected in section 702.106, prescribes the ''standard calculation,'' which relies on the eight risk portfolios identified in § 702.104. Under the standard calculation, each of the risk portfolios is multiplied by one or more corresponding risk weightings to produce eight ''standard components.'' (Risk weightings are applied to credit union investments by weighted-average life category, as specified in section 702.105.) The aggregate of the standard components equals the RBNW requirement a credit union must meet.

[3] For this reason, references to the total number of comments received on a topic may not equal the number of comments specifically discussed in the preamble. In addition, nearly all comment letters contained multiple comments addressing various provisions of the proposed rule.

[4] For example, such comments advocated exempting from the RBNW requirement credit unions having a CAMEL ''1'' or ''2'' rating; urged NCUA to prescribe a 5 percent net worth ratio to be ''well capitalized,'' as bank regulators do, even though CUMAA mandates a 7 percent minimum net worth for that category, § 1790d(c)(1)(A); proposed limiting the RBNW requirement to off-balance sheet items; and urged approval of State rules allowing federally-insured, State chartered credit unions to grant member business loans to non-members.

[5] Throughout the final rule, including the tables in the preamble and the rule text, and the appendices to subpart A which follow the rule text, the terms ''credit union'' and ''CU'' refer to federally-insured credit unions, whether federal- or State-chartered. 12 CFR 702.2(c).

The third step, reflected in section 702.107, permits a credit union to substitute any of three specific ''standard components'' in section 702.106 with a corresponding ''alternative component'' that may reduce the RBNW requirement against which the credit union's net worth ratio is measured. The alternative components recognize finer increments of risk.

Finally, a ''risk mitigation credit'' is introduced in section 702.108 to permit a credit union that fails its RBNW requirement under the ''standard calculation'' (step 2), and as computed using the ''alternative components'' (optional step 3), to apply for a credit against its RBNW requirement, reflecting mitigation of credit risk or interest rate risk.

When the three-step process is completed, an ''adequately capitalized'' (6 to 6.99 percent net worth ratio) or ''well capitalized'' (7 percent or greater net worth ratio) credit union retains its original net worth category classification if its net worth ratio meets or exceeds its RBNW requirement under the standard calculation, or as computed using one or more alternative components, or as reduced by a ''risk mitigation credit''. An otherwise ''adequately capitalized'' or ''well capitalized'' credit union whose net worth ratio falls short of its RBNW requirement declines by one and two net worth categories, respectively, to the ''first tier'' of the ''undercapitalized'' category, § 1790d(c)(1)(A)(ii) and (B)(ii), where it is subject to four mandatory supervisory actions. 12 CFR 702.202(c).

(b) *Reliance on Call Report data.* For the following reasons, the NCUA Board has decided as a matter of policy to rely primarily on the objective data collected in the Call Report to administer PCA generally, and to implement the RBNW requirement in particular. First, use of the Call Report will minimize any additional recordkeeping burden and intrusion on credit unions because credit unions already file Call Reports either quarterly or semiannually. Second, Call Reporting is an efficient system of measurement that is an appropriate vehicle for implementing minimum risk-based capital requirements on an industry-wide scale. Third, the ''PCA Worksheet'' that will accompany the Call Report will permit credit unions to readily compare their net worth ratio and corresponding category classification with an applicable RBNW requirement at any time, rather than to depend on notice from NCUA. Fourth, reliance on objective numerical standards will ensure uniformity in measurement and enforcement of the RBNW requirement.

Beginning with the 4th quarter of 2000, the Call Report will be accompanied by a ''PCA Worksheet'' which extracts data from the Call Report to populate two different schedules.[6] The first will compute a credit union's net worth ratio. The second will perform the ''standard calculation'' to first determine whether an RBNW requirement is applicable, and if so, to determine whether it is met by the credit union's net worth ratio. Independent of the Call Report, a separate form will be available to calculate the ''alternative components'' to determine if any reduce the RBNW requirement under the standard calculation.

Numerous commenters have encouraged NCUA to substantially expand and modify the Call Report on the theory that enhanced precision in the collection of PCA-related data would give them a greater opportunity to demonstrate mitigation of balance sheet risk. However, mandating such additional detail in the Call Report would increase the reporting burden for all credit unions while any resulting augmented level of precision would benefit a small minority. For this reason, NCUA plans only incremental expansion and modification of the Call Report as warranted by experience in implementing PCA. To that end, the NCUA Board adopts the practice of occasionally sacrificing precision for some in favor of simplicity for all.

Other commenters have encouraged NCUA to conduct a subjective assessment of credit unions' success, through modeling and other risk management techniques, to mitigate credit and interest rate risk, in spite of what an RBNW requirement may indicate. In this regard, the NCUA Board prefers not to circumvent the final rule's reliance on Call Report data as reflected in the ''PCA Worksheet.'' However, NCUA will evaluate quantitative evidence of risk mitigation submitted by those credit unions that apply for a risk mitigation credit. § 702.108.

2. Section 700.1(i)—Withdrawal of Definition of ''Risk Assets''

The proposed rule failed to delete part 700's definition of ''risk assets'' to reflect the repeal of section 116 of the Federal Credit Union Act (''FCUA''), 12 U.S.C. 1762. Current section 700.1(i) defines the term ''risk assets'' exclusively ''[f]or the purpose of establishing the reserves required by section 116 of the [FCUA].'' Former section 116 required a credit union to transfer a percentage of gross income to its regular reserve until the reserve equaled a prescribed percentage of the credit union's outstanding loans and risk assets. Former part 702 prescribed rules for implementing the statutory requirement to establish and maintain a regular reserve. CUMAA repealed section 116 of the FCUA. CUMAA § 301(f)(3). Former part 702 is in force under separate statutory authority until August 7, 2000—the effective date of new part 702, 65 FR 8560, which implements CUMAA's earnings retention requirement. *See* 12 U.S.C. 1790d(e). Under new part 702, neither PCA generally, nor the RBNW requirement specifically, utilizes the concept or the term ''risk assets.'' Accordingly, the final rule abolishes that term as obsolete.

3. Section 702.2(k)—Definition of Weighted-Average Life

Both the standard component and the alternative component for ''Investments'' categorize investments according to weighted-average life for purposes of risk weighting. §§ 702.106(c), 702.107(c). The proposed rule defined ''weighted-average life'' (''WAL'') as the ''time to the return of a dollar of principal, calculated by multiplying each portion of principal received by the time at which it is expected to be received, and then summing and dividing by the total amount of principal.'' 65 FR at 8068. *See* Fabozzi, Frank, and T. Dessa, eds., *The Handbook of Fixed Income Securities* (5th ed. 1997) (hereinafter ''Fabozzi'') at 539.

Twenty-two commenters addressed the proposed definition of WAL. All were content to use WAL to characterize relative interest rate risk, but ten preferred using ''effective duration'' or ''modified duration'' instead,[7] reasoning that they are more refined measures of interest rate risk exposure. In contrast, one commenter supported using the remaining term to maturity of the investment.

NCUA concedes that ''effective duration,'' appropriately calculated, can be a more refined measure of interest

[6] December 1999 data indicates that all but 60 credit unions with assets of $10 million or more file their Call Reports electronically and, therefore, will benefit from the electronic flow of data from the Call Report to the accompanying ''PCA Worksheet.''

[7] ''Effective duration'' and ''modified duration'' are estimates of the percentage price change of an investment for a one percent change in interest rates. *See* Fabozzi at 104. ''Duration'' provides a time measure of when on average the cash flows of an investment are received based on the present value of the cash flows, rather than on the actual amounts to be received in the future. *See* Woelfel, Charles J., ed., *Encyclopedia of Banking and Finance* (10th ed. 1994) at 317.

rate risk exposure. In contrast, using remaining term to maturity, although simple, can dramatically overstate the risk of certain investments. Examination experience indicates that WAL provides a fair indicator of interest rate risk exposure for typical credit union investments. Furthermore, the current Call Report requires investments to be reported according to WAL. To change the basis for reporting investments in Schedule C of the Call Report would be unduly disruptive to the process of acclimating to PCA.

One commenter urged NCUA to go beyond a general WAL definition and establish approved methodologies and sources for determining WAL. NCUA believes this is unwarranted because the definition as proposed is sufficiently clear. Reliable models, and reasonable and supportable estimates of the time periods for cash flows, are readily available from investment industry sources. In addition, to establish a process for approving WAL sources and methodologies would be burdensome and unnecessarily intrusive.

The final rule retains the general WAL definition as proposed, § 702.2(k); however, to facilitate classification by WAL in the standard and the alternative components for ''investments,'' the final rule specifies the WAL for certain categories of credit union investments. § 702.105.

4. Section 702.103—Applicability of Risk-Based Net Worth Requirement

To decide which credit unions must comply with ''an applicable risk-based net worth requirement,'' §§ 702.101(a)(2), 702.102(a), 702.302(a), the proposed rule (in former § 702.104) featured a ''four-trigger'' test defining a credit union as ''complex'' if its holdings in any of four ''risk portfolios,'' representing above-average risk, exceeded a corresponding ''trigger'' percentage of its total assets. 65 FR at 8609. This provision drew 124 comments—more than all but one other provision of the proposed rule—generally falling into three categories: those seeking to elevate the proposed ''trigger'' percentages, those critical of the test's methodology; and those preferring entirely different criteria for determining whether an RBNW requirement is applicable.

Addressing the trigger percentages of total assets, ten commenters urged raising the proposed 25 percent trigger for the ''Long-term real estate loans'' portfolio to between 30 and 50 percent, contending that a low percentage trigger would discourage lending. Two commenters disputed the validity of NCUA's reliance on comparable thrift institution data on long-term real estate loans to justify the 25 percent trigger. Nineteen commenters advocated increasing the proposed 12.25 percent trigger for the portfolio combining ''Member business loans outstanding'' and ''Unused member business loan commitments,'' generally surmising that the 12.25 percent trigger was arbitrarily borrowed from elsewhere in CUMAA. *See* 12 U.S.C. § 1757a(a). Thirty-three commenters supported increasing the proposed 15 percent trigger for the ''Long-term investments'' portfolio to between 20 and 33 percent, citing the importance of investment income to profitability when loan volume is low. One commenter suggested setting the trigger percentages based on the decline in portfolio value based on gradual periodic rate increases, rather than based on a 300 basis point ''rate shock.'' Six commenters insisted upon raising the proposed 5 percent trigger for the ''Loans sold with recourse'' portfolio to at least 10 percent of total assets, leaving a single commenter who was content with the 5 percent trigger.

Addressing the methodology of the proposed four-trigger test, seven commenters insisted that a credit union should be deemed to meet the definition of ''complex'' only if it exceeds one or more of the trigger percentages for a period of consecutive quarters, not just a single quarter. Under this scenario, the RBNW requirement would be a lagging indicator of risk, inconsistent with the purpose of PCA. Ten commenters suggested merging the ''Long-term real estate loans'' and ''Long-term investments'' portfolios under a single threshold ranging between 30 and 60 percent of total assets. Going further, another commenter proposed merging all four portfolios representing above-average risk under a single omnibus trigger percentage.

Notably, a substantial number of commenters appealed to the NCUA Board to replace the four-trigger test altogether. Thirty-one commenters sought to establish in its place a minimum asset ''floor'' as a criterion for defining ''complex,'' reflecting the minimal level of risk to the NCUSIF posed by the aggregate assets of credit unions below a certain asset size. Commenters suggested setting that floor at amounts ranging from $5 million to $100 million in assets. In contrast, two commenters objected to the exclusion of credit unions based on asset size.

Taking an alternative approach, nineteen commenters suggested defining as ''complex'' only those credit unions that have an RBNW requirement exceeding 6 percent. This would entail a reversal in sequence—instead of requiring only those credit unions that meet the definition of ''complex'' to calculate and meet an RBNW requirement, all credit unions would have to review an RBNW calculation to determine if they exceed 6 percent. Those with an RBNW requirement in excess of 6 percent would be deemed ''complex'' and then must meet that requirement. Departing even further from the four-trigger test, another commenter apparently would have all credit unions calculate an RBNW requirement, but only those which ultimately fail to meet that requirement, whether more or less than 6 percent, would be designated ''complex.'' Regardless which approach is adopted in the final rule, five commenters implored NCUA to minimize, if not to abandon, use of the statutory term ''complex'' due to what they perceive as its pejorative connotation.

The difference of opinion among commenters over the appropriate criteria for defining a ''complex'' credit union has caused the NCUA Board to review the statutory criteria for designing the RBNW requirement, § 1790d(d); to assess the impact of the four trigger-test compared to commenters' suggested alternatives, based on the most recent Call Report data; and to consider which approach will, in the end, most efficiently capture the risks to the NCUSIF that are the intended target of the RBNW requirement. In addition, the NCUA Board shares commenters' concern that a significant number of credit unions that met the definition of ''complex'' under the four-trigger test had an RBNW requirement of 6 percent or less. This reevaluation has persuaded the NCUA Board to abandon the four-trigger test in favor of a simple standard of applicability that combines minimum asset size and a minimum RBNW requirement.

Accordingly, the final rule provides that ''a credit union is defined as 'complex' and an RBNW requirement is applicable'' only if its total assets exceed $10 million and its RBNW requirement under the standard calculation exceeds 6 percent.[8] § 702.103. Both measures rely on quarter-end total assets as reflected in a credit union's most recent Call Report

[8] The final rule effectively exempts ''new'' credit unions under subpart C being defined as ''complex'' and subject to an RBNW requirement because, by definition, they have $10 million or less in assets. *Compare* §§ 702.310(b) *and* 702.103(a)(2). Therefore, the final rule deletes references to an RBNW requirement for ''new'' credit unions from sections 702.302(a) and (c) in subpart C.

filed either quarterly or semiannually. [9] Wherever possible, the final rule uses the statutory term ''applicable risk-based net worth requirement,'' *e.g.,* § 1790d(c)(1)(B)(ii) instead of the statutory label ''complex.'' An RBNW is not ''applicable'' to a credit union that does not meet both criteria; its net worth category classification is decided solely by its net worth ratio.

(a)(1) *Minimum asset size.* The prerequisite $10 million asset ''floor'' imposed in the final rule reflects the conclusion that the aggregate assets of credit unions in that asset bracket do not expose the NCUSIF to material risk. CUMAA directed NCUA to develop an RBNW requirement that ''take[s] account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized [6 percent] may not provide adequate protection.'' § 1790d(d)(2) (emphasis added); S. Rep. at 13 (1998). Aggregate insured shares of credit unions with $10 million or less in assets equal $17,269,585,004, or 5.15 percent of all insured shares. Of the 6195 credit unions in this asset bracket, currently 105 would be subject to an RBNW requirement under § 702.103(a)(2), representing $423,344,277 in insured shares. This would be the NCUSIF's maximum exposure in a worst case scenario that assumes all 105 credit unions with assets of $10 million or less fail and the NCUSIF is forced to absorb losses at the rate of 100 cents to the dollar. By comparison, today only 5 of the 105 credit unions meeting the definition of ''complex'' in that asset group would fail their RBNW requirement under the standard calculation. Under typical circumstances, the NCUSIF's risk exposure from credit unions with $10 million or less in assets is insufficient to be considered material.

With a sacrifice of minimal risk protection, the $10 million asset floor dramatically reduces the burden the RBNW requirement would impose. Credit unions with assets of $10 million or less number 6195, representing 58 percent of all credit unions. Thus, the $10 million asset floor relieves the majority of credit unions of any burden whatsoever associated with an RBNW requirement.

The $10 million asset floor parallels use of a $10 million measure elsewhere in CUMMA to trigger other PCA provisions. A maximum of $10 million in assets is one criterion of the statutory definition of a ''new'' credit union, which is subject to an alternative system of PCA. § 1790d(o)(4). CUMAA requires NCUA to provide assistance in preparing net worth restoration plans to credit unions having less than $10 million in assets. § 1790d(f)(2). In addition, excluding credit unions beneath the $10 million asset floor is consistent with the Treasury Department recommendation that led Congress to enact an RBNW component of PCA—that it is needed ''for larger, more complex credit unions * * * to take account of risks * * * that may exist only for a small subset of credit unions.'' U.S. Dept. of Treasury, *Credit Unions* (1997) at 71.

(a)(2) *Minimum RBNW requirement.* The minimum 6 percent RBNW ''floor'' which the final rule imposes on credit unions with assets above $10 million reflects the conclusion that credit unions whose RBNW requirement is 6 percent or less fall outside the intended target of the RBNW requirement. CUMAA is explicit in concentrating the RBNW requirement on ''material risks against which the [6 percent] net worth ratio required * * * to be adequately capitalized may not provide adequate protection.'' § 1790d(d). Further, NCUA was instructed to ''consider whether the 6 percent requirement provides adequate protection against * * * relevant risks.'' S. Rep. at 13. The NCUA Board has determined that a 6 percent net worth ratio is sufficient to protect against an average level of risk, but that a measure of additional net worth is needed to compensate for risks which are above average. For this reason, the final rule limits the scope of its RBNW requirement to credit unions that have an above average level of risk exposure.

Under the proposed rule, all credit unions, through the ''PCA Worksheet,'' were required to conduct the four trigger test, and once meeting the definition of ''complex,'' were required to calculate and meet an RBNW requirement. 65 FR at 8609. With the minimum 6 percent RBNW floor, that process is reordered as explained above; all credit unions with assets above $10 million will now have to review a standard RBNW calculation reflected in the ''PCA Worksheet'' to determine whether the result exceeds 6 percent. If so, the RBNW requirement is applicable and must be met; if not, an RBNW requirement is not applicable and the credit union retains its original net worth category classification. Although all credit unions with assets above $10 million now will have to review an RBNW calculation, fewer will be required to meet an RBNW requirement.

Primarily as a result of the final rule's $10 million asset floor, it is estimated that 452 credit unions will be required to meet an RBNW requirement under the final rule—less than one-third the number required to do so under the proposed rule. *See* section E below.

(b) *Optional Call Report filing.* The proposed rule required the RBNW requirement to be determined according to a credit union's Call Report schedule—quarterly for quarterly filers, and semiannually for semiannual filers. 65 FR at 8599. *Compare* 12 CFR 702.101(a) (quarterly determination of net worth and corresponding category). One commenter protested that this would deprive semiannual filers of the means to demonstrate either that an RBNW requirement no longer is applicable, or that their RBNW requirement has declined (and perhaps has been met) in the 1st and 3rd quarters. Another commenter proposed a solution—optional 1st and 3rd quarter Call Report filing for semiannual filers. Another would mandate quarterly Call Report filing by all credit unions that meet the definition of ''complex.''

Mandatory quarterly Call Report filing for credit unions that meet the definition of ''complex'' currently is not warranted; however, NCUA concurs that optional 1st and 3rd quarter Call Report filing would give those credit unions maximum flexibility. The final rule is modified accordingly. § 702.103(b).

5. Section 702.104—Risk Portfolios Defined.

The proposed rule (in former § 702.103) established eight ''risk portfolios,'' representing various levels of risk. 65 FR at 8608. The portfolios consist of assets, liabilities and contingent liabilities, as reflected in Call Report data to be collected in the ''PCA Worksheet'' accompanying the Call Report. In subsequent sections, the contents of each risk portfolio will be multiplied by one or more corresponding risk weightings. The final rule retains the eight proposed risk portfolios, modified as follows in section 702.104 (*see* Table 1 in § 702.104):

(a) *Long-term real estate loans.* The proposed risk portfolio for ''Long-term real estate loans'' consisted of all fixed-rate real estate loans and lines of credit that mature or reprice in greater than 3 years. 65 FR at 8608. NCUA examination experience and research confirmed that a vast majority of member loans with above average exposure to interest rate changes are real estate related. 65 FR at 8600. The 124 overlapping comments addressing this provision generally seek either to

[9] When part 702 or the Call Report refers to total assets at quarter-end, it means the month-end balance as of the end of calendar quarter. *E.g.,* §§ 702.2(j)(1)(i) and (iv), 702.104, 702.106, 702.107.

increase the 3-year maturity and repricing threshold or to narrow the composition of the portfolio by excluding certain types of loans.

Forty-eight commenters urged an increase in the 3-year maturity and repricing threshold to either 5 or 7 years on various grounds. Although careful not to advocate an augmented risk portfolio for consumer loans, the majority of commenters protested that a threshold as low as 3 years discriminates against real estate loans compared with consumer loans, even though they have similar economic value exposure,[10] indicating little difference in interest rate risk. The commenters predicted that this unequal treatment would cause credit unions to migrate to consumer lending at the expense of real estate lending in order to elude this risk portfolio. This would result in an increase in credit risk exposure due to the generally better performance and more stable collateral of real estate loans when compared with consumer loans. On similar grounds, nineteen commenters urged NCUA to exclude home equity loans with maturities of fewer than 6 or 7 years.

Commenters supporting a 5-year maturity and repricing threshold for this portfolio observed that NCUA adopted a 5-year threshold in its pre-PCA definition of ''risk assets.'' 12 C.F.R. § 700.1(i); *but see* section C.2. above. Others pointed elsewhere in the proposed rule, observing that the alternative component for ''Long-term real estate loans'' features a 3-to-5 year remaining maturity bucket that receives the risk weighting designated for average risk assets (6 percent). In contrast, a single commenter was content with the 3-year threshold, and another went even further to boldly suggest applying it to consumer loans as well.

With regard to the composition of the ''Long-term real estate loans'' portfolio, a commenter suggested excluding loans having a government guarantee against default. While a guarantee against default mitigates credit risk, it does not affect interest rate risk. Because this portfolio measures primarily interest rate risk, it is appropriate that long-term, government guaranteed loans remain in this risk portfolio.

Seeking a means to demonstrate risk mitigation, twenty-three commenters wished to exclude loans, or even the whole portfolio, upon proof that ''matching'' loans against liabilities or ''hedging'' through derivatives mitigates corresponding balance sheet risk. Fourteen commenters wanted to adopt WAL instead of contractual maturity to report real estate loans because WAL is more accurate and would reflect anticipated mortgage loan prepayments. If adopted, both suggestions would substantially narrow the scope of this risk portfolio.

NCUA concedes that ''matching'' and ''hedging'' are prudent risk management tools, and that WAL is a potentially more accurate measure of risk exposure. As explained in section C.1(b) above, the NCUA Board has decided as a matter of policy to rely on objective data captured in the Call Report and reflected in the ''PCA Worksheet'' as the most efficient means to implement PCA. For this reason, the final rule neither incorporates WAL in the ''Long-term real estate loans'' risk portfolio, nor excludes ''matched'' or ''hedged'' loans.[11]

Two commenters recommended that this portfolio combine mortgage-backed securities with long-term real estate loans. Due to the similarity in risk characteristics, NCUA concurs that this is the preferred business practice to manage balance sheet risk on an aggregate basis (*See* NCUA Letter to Credit Unions No. 99–CU–12, ''Real Estate Lending and Balance Sheet Risk Management,'' August 1999); however, since aggregate measurement is less accurate than measurement of the specific components, and would impose an undue burden on some credit unions to estimate reliable prepayment assumptions, NCUA declines to mandate the practice for all credit unions.

Seeking a fundamental modification, three commenters recommended applying the three-year contractual maturity exclusion to the scheduled principal payments of all real estate loans. This is unnecessary because scheduled principal repayments are already taken into consideration in the risk weighting assigned as a result of NCUA's evaluation of the potential economic value exposure of long-term real estate loans.

To achieve general parity among all types of loans, the final rule increases the maturity and repricing threshold for the ''Long-term real estate loans'' risk portfolio to 5 years. § 702.104(a). This will ensure a risk-weighting consistent with relative economic value exposure for all types of loans (other than member business loans) that mature or reprice within 5 years, regardless of underlying collateral. The 5-year threshold will omit a significant amount of home equity loans from this risk portfolio, yet still capture the vast majority of real estate loans with above average interest rate risk.

(b) *Member business loans outstanding.* The proposed risk portfolio for ''Member business loans outstanding'' consisted of loans outstanding that qualify as member business loans (''MBLs'') under NCUA's definition, 12 CFR 723.1, or under a State's NCUA-approved definition. 65 FR at 8608. Unused MBL commitments were expressly excluded because they are addressed in a separate risk portfolio, § 702.104(g).

NCUA received several comments generally seeking to exclude certain MBLs from this risk portfolio. Eleven commenters sought to exclude portions of MBLs that are government guaranteed, and six urged excluding portions with credit enhancements, such as those secured by shares or deposits in a federally-insured financial institution, or guaranteed by a non-governmental organization. NCUA's rule on MBLs (''Part 723'') already excludes from the loans-to-one-borrower limit, § 723.8, portions of an MBL that are either: ''fully or partially'' government guaranteed; subject to a government's advanced commitment to purchase; or fully secured by shares or deposits in a federally-insured financial institution. § 723.9(a)(3). *See also* § 723.1(b)(4), 64 FR 28721, 28722 (May 27, 1999). Consistent with part 723, NCUA declines to exclude MBLs guaranteed by a non-governmental organization from the ''Member business loans outstanding'' risk portfolio.

Purporting to seek further consistency with part 723, five commenters insisted upon excluding those MBLs having an aggregate remaining balance equal to or less than $50,000. § 723.1(b)(3). However, the NCUA Board has determined that part 723's $50,000 threshold is measured against the original balance of the loan at the time it is originated, not its subsequent remaining balance. If a loan qualifies as an MBL when it is originated, it remains so until it has been repaid in full, sold, or otherwise disposed of.

Four commenters urged excluding loans secured by real estate from this risk portfolio, contending that long-term

[10] ''Economic value exposure'' refers to price sensitivity of a credit union's assets (changes in the value of the assets over different interest rate/yield curve scenarios). NCUA Interpretive Ruling and Policy Statement No. 98–2, ''Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities,'' 63 FR 24097, 24101 (May 1, 1998).

[11] Federally-charted ''natural person'' credit unions may apply to participate directly, or through a corporate credit union acting as a vendor, in an interest-rate-risk-hedging program involving derivative transactions. 12 CFR 703.140. Corporate credit unions may apply under Appendix B to 12 CFR 704 for expanded authorities to engage in derivative transactions.

fixed-rate MBLs belong in the ''Long-term real estate loans'' risk portfolio because not all MBLs are long-term and fixed-rate. This would potentially lead to a higher than necessary risk weighting for shorter-term MBLs. Similarly, four commenters suggested excluding loans secured by automobiles, as well as loans with maturities less than 3 years, asserting that they belong in the ''Average risk assets'' risk portfolio because such loans present minimal interest rate risk. Part 723 defines an MBL as any loan, line of credit, or letter of credit where the proceeds are used for commercial, corporate or agricultural purposes, or for other business investment property or venture. § 723.1(a). A loan that is fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence is not an MBL. § 723.1(b)(1). Such a loan would be included in either the ''Long-term real estate loans'' risk portfolio or the ''Average risk assets'' risk portfolio depending on its remaining maturity. Part 723 also excludes other loans from its definition of an MBL, § 723.1(b)(2)–(5), which would be included in the ''Average risk assets'' portfolio.

Finally, a single commenter sought to eliminate the ''MBLs outstanding'' risk portfolio altogether on ground that CUMAA did not explicitly mandate additional net worth for MBLs. In fact, CUMAA did not identify any particular assets warranting additional net worth; rather, the statute instructed NCUA to generally identify credit unions which meet a definition of ''complex'' based on their portfolios of assets and liabilities and to design an RBNW requirement that takes account of material risks not addressed by a 6 percent net worth ratio.

The final rule retains the ''Member business loans outstanding'' risk portfolio without modification. § 702.104(b).

(c) *Investments.* The proposed risk portfolio for ''Long-term investments'' (here renamed simply ''Investments'') consisted of investments with a WAL greater than 3 years or which reprice more frequently than 3 years, and investments in a collective investment fund or a registered investment company. 65 FR 8608. NCUA research and experience indicated that such investments have greater economic value exposure to interest rate changes than do investments with shorter terms. 65 FR at 8600. Investments which fell below the threshold for this portfolio qualify for either of the proposed ''Low risk assets'' or ''Average risk assets'' risk portfolios.

The 46 commenters who addressed this risk portfolio fall into two categories—those challenging the 3-year WAL and repricing threshold, and those who contend that certain investments belong in other risk portfolios. Forty-two insisted upon raising the threshold to between a low of 4 years and a high of 10 years, although few provided any rationale for the adjustment. In contrast, one commenter cited valuation modeling confirming that the 3-year threshold is reasonable. NCUA maintains that the 3-year WAL threshold is valid according to valuation modeling of fixed-rate investments. 65 FR 8600.

In regard to composition of the portfolio, one commenter suggested reducing the dollar balances of investments above the 3-year threshold by the amount of projected amortizations within 3 years. Another would offset that balance by the amount of investments having a WAL of less than one year. Two commenters proposed to exclude investments classified as ''available-for-sale'' under Statement of Financial Accounting Standards No. 115 (''SFAS 115'') on the theory that marking-to-market takes into account their current market values. NCUA disagrees, however, because these investments have potential interest rate risk and the current mark-to-market is not reflected in net worth, which is generally limited to retained earnings. § 702.2(f); *See also* 65 FR at 8565. To put different assets in parity with each other, thirteen commenters insisted on putting investments with a WAL of less than one year in the ''Low risk assets'' portfolio.

NCUA concurs with commenters that the RBNW requirement should treat similar investments similarly in terms of risk, and has determined that the most comprehensive and efficient means to that end is to define investments at the outset by WAL only, as specified in § 702.105, and to subsequently apply the same risk weighting to all investments in the same WAL category. To implement this fundamental modification to the proposed rule, the final rule eliminates altogether the WAL and repricing threshold to distinguish long-term from short-term investments. Instead, the risk portfolio for investments is now expanded to consist of all investments permitted by law for federally-insured credit unions, including investments in CUSOs. § 702.104(c). To reflect this modification, this risk portfolio is renamed simply ''Investments.''

(d) *Low-risk assets.* The proposed risk portfolio for ''Low risk assets'' consisted of cash and cash equivalents as defined by Generally Accepted Accounting Principles (''GAAP''). 65 FR at 8608. GAAP generally interprets cash equivalents as investments with remaining maturities of 3 months or less. 65 FR at 8600 n.6.

Thirty commenters insisted that cash be treated as a ''no risk asset'' so that it receives a risk weighting of zero, instead of the 3 percent weighting that the proposed rule applied to this portfolio. Similarly, fourteen commenters inquired why a credit union's NCUSIF deposit was not also treated as a ''no risk asset.'' Three commenters asserted that mutual funds with portfolios maturing within 90 days constitute cash equivalents and should be classified as ''Low risk assets.''

NCUA agrees that cash held by a credit union for normal operations—such as vault cash, ATM cash and teller cash—typically presents no risk because it is protected from loss by a credit union's fidelity bond. However, cash equivalents such as demand deposits and short-term investments at other financial institutions carry some degree of credit risk when they exceed applicable insuring limits. In contrast, the NCUSIF deposit clearly poses no credit risk to the NCUSIF or to the credit union. Further, although the NCUSIF deposit represents 1 percent of insured shares and deposits on a credit union's balance sheet, it typically is augmented by a maximum of 30 basis points in NCUSIF retained earnings. This 30 basis point cushion is available to absorb losses before the NCUSIF deposit would be impaired.

To distinguish no risk assets from low risk assets, the final rule deletes cash on deposit in financial institutions and cash equivalents (*e.g.,* investments with a maturity of 90 days or less) from the ''Low risk assets'' portfolio, effectively shifting them to the ''Investments'' risk portfolio, where they will subsequently be categorized in the one year or less WAL bucket and weighted at 3 percent. *See* §§ 702.106(c)(1), 702.107(c)(1). Cash on hand and the NCUSIF deposit remain in the ''Low risk assets'' risk portfolio, § 702.104(d); however, because those assets carry no appreciable risk, the final rule reduces to zero the risk weighting subsequently given to that portfolio in the corresponding standard component. § 702.106(d).

(e) *Average-risk assets.* The proposed risk portfolio for ''Average risk assets'' consists of assets which do not fall within the scope of any other risk portfolio because such assets are neither below nor above average in risk. 65 FR at 8608. This portfolio typically includes consumer loans, short-term

real estate loans and fixed assets, 65 FR at 8600, and is subsequently weighted at 6 percent to reflect the 6 percent net worth ratio required to be classified ''adequately capitalized.''

Two commenters argued that fixed assets should be put in the ''Low risk assets'' risk portfolio because land and buildings typically increase in value. However, NCUA research shows that credit unions with high levels of fixed assets on average have lower net income.

Addressing investments which had been subject to the proposed rule's 3-year WAL and repricing threshold—since abandoned—sixteen commenters argued that investments having a WAL of less than 1 year appropriately belong in the ''Low risk assets'' portfolio, where they would be weighted at 3 percent instead of 6 percent. Twenty-three commenters believed that mutual funds with a WAL of less than one year—which had been included in the proposed ''Long-term investments'' portfolio regardless of WAL or repricing date—also belong in this portfolio. The final rule addresses these suggestions elsewhere by classifying all investments by WAL, as specified in § 702.105, and applying a corresponding risk weighting, §§ 702.106(c), 702.107(c). Because the ''Average risk assets'' risk portfolio contains only those assets that do not belong in the risk portfolios discussed in sections 5.(a) through (d) above, the final rule retains the ''Average risk assets'' risk portfolio without modification. § 702.104(e).

(f) *Loans sold with recourse.* The proposed risk portfolio for ''Loans sold with recourse'' consisted of a credit union's outstanding balance of loans sold or swapped with recourse. 65 FR at 8608. As contingent liabilities, they are an off-balance sheet item and, therefore, do not fall in any of the other risk portfolios.

To avoid what was perceived as double-counting, seven commenters favored deducting recourse loans from this portfolio to the extent that they already have been reserved for through the provision for loan and lease losses expense in accordance with GAAP. NCUA disagrees because the ''Allowance'' standard component gives an offsetting credit for the Allowance for Loan and Lease Losses, § 702.106(h); thus, there is no redundant reserving. Loans sold with recourse are treated no differently than on-balance sheet loans that also require GAAP reserving but still receive a minimum 6 percent risk weighting. *See* 702.106(a)(1).

Two commenters asserted that this risk portfolio should include only the portion of a loan that is subject to recourse against the credit union. The final rule does not recognize partial recourse because the Call Report does not collect data in sufficient detail to distinguish partial from full recourse. *See* ''Risk Based Capital Standards; Recourse and Direct Credit Substitutes,'' 65 FR 12320, 12344 (March 8, 2000) (proposal to require banks to maintain capital against full amount of assets supported by a partial recourse obligation).

One commenter requested corroboration on the risk exposure associated with recourse loans. NCUA maintains that examination experience with credit unions' limited activity in this area thus far suggests that the credit risk exposure associated with recourse loans is analogous to that associated with similar loans retained on the balance sheet. *See* 65 FR at 8601. In this regard six commenters urged NCUA to collect more detailed data to measure incremental levels and conditions of associated risk exposure. NCUA concurs that this information would be useful in developing risk gradations, identifying potential exclusions, and differentiating loans with only partial recourse. At present, however, only 55 credit unions report any recourse loan activity. Until this activity expands significantly, NCUA prefers to keep the burden and level of detail in recourse loan reporting to a minimum.

The proposed rule's silence about loans sold in the secondary mortgage market prompted a commenter to request NCUA to clarify whether such loans are considered loans sold with recourse. In response, the final rule expressly excludes loans sold to the secondary mortgage market that feature representations and warranties customarily required by the U.S. Government (*e.g.,* Ginnie Mae) and government-sponsored enterprises (*e.g.,* Fannie Mae, Freddie Mac). § 702.104(f). These include warranties that the credit union has underwritten the loan and appraised the collateral in conformity with identified standards. These warranties provide for the return of assets in instances of incomplete documentation or fraud. However, credit enhancing representations and warranties beyond the usual agency requirements are considered recourse and, therefore, are not excluded from this risk portfolio. The ''Loans sold with recourse'' risk portfolio is otherwise retained as proposed.

(g) *Unused member business loan commitments.* The proposed risk portfolio for ''Unused member business loan commitments'' segregates unused MBL commitments from actual loans because commitments represent off-balance sheet, contingent liabilities. 65 FR at 8608. Large draws on unused MBL commitments may cause liquidity problems and heighten exposure to credit risk. 65 FR at 8601.

Attempting to demonstrate a lower level of credit risk, two commenters wished to discount an unused commitment when it is revocable, *e.g.,* on grounds of a ''material adverse condition.'' However, examiner experience indicates that MBL commitments typically do not feature a ''material adverse conditions'' clause as grounds for revocation.

From a different approach, three commenters proposed discounting unused commitments by half due to the unlikelihood that all of a credit union's unused commitments would be drawn upon simultaneously. As explained above, part 723 does not discount or reduce a loan's original balance when aggregating MBLs or unused commitments to apply the $50,000 exclusion under section 723.1(b)(3). To remain consistent with part 723, the final rule retains this risk portfolio as proposed. § 702.104(g). Commenters' observations already are reflected in the lower risk weighting (6 percent) the standard calculation applies to the entire contents of the ''Unused member business loan commitment'' portfolio, § 702.106(g), compared to the 12 percent risk weighting it applies to the proportion of the ''Member business loans'' risk portfolio in excess of 12.25 percent of total assets. § 702.106(b)(2).

(h) *Allowance.* As proposed, the ''Allowance '' risk portfolio provides a credit of 100 percent of a credit union's Allowance for Loan and Lease Losses (''ALL'') not to exceed the equivalent of 1.5 percent of total loans. 65 FR at 8609. This credit is given to recognize that a credit union's ALL already mitigates risk.

The commenters were at odds in addressing the composition of the ''Allowance'' portfolio. One commenter suggested expanding the ''Allowance'' portfolio to include the ''Allowance for investment losses,'' apparently unaware that SFAS 115 eliminated the need for that account. In bold contrast, another favored doing away with the portfolio altogether, objecting that it unnecessarily complicates the rule.

A single commenter suggested that the ''Allowance'' portfolio consist of the equivalent of a fixed 1.5 percent of loans regardless whether a credit union's actual ALL is less than 1.5 percent of total assets. In that event, a credit union would receive a credit to reduce its RBNW requirement for reserves that it does not actually have.

The other commenters challenged the portfolio's maximum of 1.5 percent of total loans. Several predicted that it will be a disincentive to fund the ALL above the equivalent of that ceiling. This claim is not persuasive, however, because credit unions are bound by GAAP and § 702.401(d) to compute the ALL accurately and in good faith, without regard to maximizing the credit derived from the ''Allowance'' risk portfolio. In any event, NCUA research indicates that two-thirds of all credit unions' ALL does not reach 1.5 percent of total loans.

The ''Allowance'' risk portfolio recognizes the credit risk mitigation resulting from reserving for losses in the ALL. Yet reserves in excess of 1.5 percent of total loans reflect higher than typical levels of credit exposure. 65 FR at 8601. To capture this higher risk, the ceiling on the ''Allowance'' risk portfolio remains intact in the final rule. § 702.104(h).

6. Section 702.105—Weighted-Average Life of Investments

Both the standard component and the alternative component for ''Investments'' categorize the contents of the corresponding risk portfolio according to weighted-average life for purposes of risk weighting. §§ 702.106(c), 702.107(c). For this purpose, section 702.2(k), discussed above, provides a general definition of WAL. Section 702.105 prescribes rules for determining the WAL of certain investments (*see* Table 2 in § 702.105).

(a) *Registered investment companies and collective investment funds.* The proposed rule made an exception to the general WAL definition only for investments in registered investment companies or collective investment funds (other than money market mutual funds), assigning them a WAL of greater than 5 years, but less than or equal to 7 years. 65 FR at 8608.

Commenters who addressed the single proposed exception for registered investment companies and collective investment funds insisted that the target or maximum WAL disclosed in a prospectus or trust instrument is the most accurate measure of interest rate risk. NCUA concurs in this suggestion, but prefers to use maximum disclosed WAL because a mutual fund's actual WAL may exceed its stated target.

The maximum WAL may be disclosed directly, or indirectly by reference to a maximum duration no greater than that of a bullet security (*i.e.,* a security with all principal due at maturity). A bullet security is analogous because, by definition, its WAL is equal to the time period until its maturity, since all of its principal cash flow occurs on its maturity date. For example, a mutual fund that limits its duration to that of a two-year Treasury note would be defined as having a WAL of two years, since a Treasury note with a period remaining to maturity of two years has a WAL of two years.

Five commenters insisted that short-term investment funds (''STIFs'') and money market funds be treated equally for purposes of defining WAL because of their similarly low interest rate risk. Indeed, collective investment funds that adhere to STIF rules for national banks must have an average portfolio maturity of 90 days or less. 12 CFR 9.18(b)(4)(ii)(B)(1)–(3). NCUA concurs in this recommendation.

For registered investment companies and collective investment funds, the final rule is revised to incorporate maximum WAL as disclosed in a prospectus or trust instrument. § 702.105(a)(1). If not directly or indirectly disclosed there, however, the final rule retains the proposed WAL of greater than 5 years but less than or equal to 7 years. § 702.105(a)(3). Treating STIFs and money market funds equally, the final rule classifies them as having a WAL of 1 year or less. § 702.105(a)(2). To conform to these WAL classifications, the Call Report instructions will be revised to clearly classify mutual funds and collective investment funds by WAL.

(b) *Callable fixed-rate debt obligations and deposits.* As determined under the general WAL definition, the WAL of a callable fixed-rate debt obligation or deposit would be its actual maturity date. Five commenters addressed this result—two contending that the rule should take into consideration an option to redeem an investment prior to maturity; another urging use of ''effective WAL'' since the WAL of callable investments may change; and yet another preferring, without explanation, to rely on the WAL for callable ''Agency'' investments. One commenter criticized the use of WAL for callable investments as not appropriately recognizing the extent of risk.

Typical credit union investments in callable securities (such as ''Agency'' callable securities) are callable at the option of the issuer, not of the credit union. Investments in which credit unions hold an option to redeem prior to maturity typically would be characterized as ''putable'' investments,[12] rather than callable investments. Examination experience indicates credit unions rarely hold ''putable'' investment securities. In such rare instances, however, the general WAL definition would permit the WAL of ''putable'' securities to be computed on the basis of reasonable and supportable estimates of the times for principal cash flow.

To clarify reporting of debt obligations and deposit investments that are callable in whole at the option of the issuer, the final rule explicitly adopts the current Call Report practice of reporting such callable instruments with a WAL equal to the period remaining until the final maturity date, § 702.105(b), instead of the period remaining until a call date. The final rule does not rely on WAL for the entire portfolio of callable instruments because such a dollar-weighted average measure would reduce the accuracy of the risk measure.

(c) *Variable-rate debt obligations and deposits.* Under the proposed rule, a variable-rate debt obligation or deposit would be categorized by its next rate adjustment period, rather than by its WAL. 65 FR at 8608. NCUA received no comments on this outcome. To clarify reporting of variable-rate investments, the final rule explicitly adopts the current Call Report practice of reporting variable-rate debt obligations and deposits in the WAL category corresponding to the period remaining to the next rate adjustment. § 702.105(c).

(d) *Capital in mixed-ownership Government corporations and corporate credit unions.* The proposed WAL definition did not explicitly address the determination of WAL of stock in mixed-ownership Government corporations (*e.g.,* Federal Home Loan banks and NCUA's Central Liquidity Facility) or capital in corporate credit unions. However, a commenter's inquiry about the WAL of Federal Home Loan bank stock that may be redeemed after a notice period led the NCUA Board to examine the WAL of stock in mixed-ownership Government corporations, and member paid-in capital and membership capital in corporate credit unions. While such investments may have credit risk exposure, membership in such entities can provide credit unions with access to substantial sources of liquidity or funding. To better protect the NCUSIF from the risk of losses arising from liquidity events, NCUA encourages

[12] An investment is ''putable'' if the owner of the investment (*i.e.,* the holder) has the right, but not the obligation, to sell to the issuer at a given price (*i.e.,* the strike price) on or during a specified time period (*i.e.,* the exercise period). The issuer of a ''putable'' investment has the obligation to purchase the investment from the holder in the event the holder elects during the exercise period to sell to the issuer at the strike price. *See* Fabozzi at 11.

credit unions to join such entities that provide contingent liquidity.

To ensure that the WAL of investments in liquidity-enhancing entities does not excessively increase an RBNW requirement, thereby deterring such investments, the final rule explicitly specifies capital stock in mixed-ownership Government corporations, and member paid-in capital and membership capital in corporate credit unions, as having a WAL of greater than 1 year, but less than or equal to 3 years. § 702.105(d).

(e) *Investments in CUSOs.* The proposed rule did not explicitly address investments in CUSOs. By properly structuring a CUSO, a credit union may limit its losses resulting from such operations to the amount of its investment in, and loans to, the CUSO. NCUA believes that the NCUSIF will be better protected from the risk of losses arising from service operations, and credit union members will be better served, if credit unions are not discouraged from forming and participating in CUSOs. In the absence of a CUSO, balance sheet assets used to support CUSO service operations would be treated as average risk assets and would be risk weighted as such. To ensure that CUSO investments are treated similarly, the final rule defines investments in CUSOs as having a WAL of greater than 1 year, but less than or equal to 3 years, § 702.105(e), and subsequently weights them the same as average risk assets.

(f) *Other equity securities.* The final rule adds this provision to address equity securities (in which some federally-insured, State-chartered credit unions (''FISCUs'') may be permitted to invest) for which a WAL is not explicitly defined elsewhere in § 702.105, or cannot be determined because they do not have maturity dates (although certain preferred instruments may have conversion dates). Because there is no scheduled time for the return of principal, such securities have an infinite WAL. Accordingly, the final rule defines WAL for ''other equity securities'' as greater than 10 ten years, § 702.105(f), corresponding to the final rule's maximum WAL category for investments. § 702.106(c)(4).

7. Section 702.106—Standard Calculation of Risk-Based Net Worth Requirement

To implement the second step of the three-step process, called the ''standard calculation,'' section 702.106 multiplies either the whole or different percentage tiers of each risk portfolio in section 702.104 by a corresponding risk weighting to yield a standard component. The sum of the eight standard components equals the RBNW requirement. *See* Table 3 in § 702.106, and Appendix A. If a credit union's RBNW requirement under the standard calculation exceeds 6 percent, the credit union ''is defined as 'complex' and [an RBNW] requirement is applicable.'' § 702.103(a)(2). The RBNW requirement is met when it is exceeded by a credit union's net worth ratio (generally, retained earnings as a percentage of total assets). The final rule retains the proposed components (formerly called ''RBNW components''), modified as follows in section 702.106:

(a) *Long-term real estate loans.* The proposed standard component for ''Long-term real estate loans'' divided the contents of the corresponding risk portfolio into three percentage tiers of total assets—zero to 25 percent, weighted at 6 percent to represent average risk; 25 to 40 percent, weighted at 14 percent to protect against the higher marginal risk; and in excess of 40 percent, weighted at 16 percent to reflect corresponding increases in credit concentration risk and in the ratio of new loans to seasoned loans. 65 FR at 8609.

Twenty-five commenters sought to restructure the tiers and to reduce the corresponding weightings for each, but generally provided no justification for the adjustments. Five were content to apply the 14 percent weighting to the 25 to 40 percent tier, but objected that the 16 percent weighting applied to the tier in excess of 40 percent of total assets was excessive. Their rationale is that a credit union with a 40 percent concentration in long-term real estate loans does not necessarily have a greater percentage of new 30-year mortgages than a credit union with a 25 percent concentration. To acknowledge that credit union liabilities typically do not all reset overnight, NCUA agrees to reduce to 14 percent the proposed 16 percent weighting.

One commenter challenged as too conservative NCUA's reliance on a 300 basis point interest rate ''shock test'' to corroborate the assigned risk weightings. The 300 basis point shock test is a widely accepted measure of interest rate risk adopted for financial institution investment pre-purchase analysis by the Federal Financial Institutions Examination Council. FFIEC, ''Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities,'' 63 FR 20191, 20195 (April 23, 1998). For balance sheet-wide application, see Office of Thrift Supervision, ''Thrift Bulletin 13a: Management of Interest Rate Risk, Investment Securities, and Derivative Activities,'' 63 FR 66351, 66361 (December 1, 1998). Therefore, the 300 basis point ''shock test'' is a legitimate basis for determining appropriate risk weightings.

In response to criticism of the 16 percent weighting, the final rule modifies the standard component for ''Long-term real estate loans'' by reducing it from three to two percentage tiers—up to and including 25 percent of total assets, weighted at 6 percent; and in excess of 25 percent of total assets, weighted at 14 percent. § 702.106(a).

(b) *Member business loans outstanding.* The proposed standard component for ''Member business loans outstanding'' divided the contents of the corresponding risk portfolio by a single threshold of 12.25 percent of total assets. The tier below was weighted at 6 percent, and the tier in excess was weighted at 14 percent. 65 FR at 8609.

Asserting various justifications, fourteen commenters advocated reducing the proposed weightings to as low as 4 percent and reserving the 14 percent weighting only for MBLs in excess of 20 percent of total assets. Some compared losses for consumer loans against the losses for MBLs over an 8-year period and noted that actual losses for MBLs for that period were only 57 basis points, or 75 percent of the amount for consumer loans. Others pointed to the risk mitigating characteristics of MBLs with low loan-to-value (''LTV'') ratios (*e.g.,* 60 percent) which typically reprice within 3 to 5 years; and to short-term, seasonal loans secured by land, which are subject to greater regulation and higher reserving.

The commenters focused on credit risk exposure only, overlooking the interest rate risk and other relevant risks associated with MBLs. As the amount of MBLs outstanding increases, interest rate risk also typically increases, as does credit concentration risk. Accordingly, the final rule retains the proposed standard component without modification. § 702.106(b).

(c) *Investments.* The proposed standard component for ''Long-term investments'' (since renamed simply ''Investments'') divided the contents of the corresponding risk portfolio by a single threshold of 15 percent of total assets. The tier below was weighted at 6 percent, and the tier in excess was weighted at 14 percent. 65 FR at 8609.

Although content with the 6 percent weighting, thirty-four commenters, generally without explanation, advocated increasing the threshold to a higher percentage of total assets. Two commenters suggested introducing an intermediate tier of 15 to 25 percent of total assets, weighted at 8 percent, with

the excess over 25 percent weighted at no more than 10 percent.

Other commenters questioned NCUA's reliance on the 300 basis point interest rate ''shock test'' to develop risk weightings for investments. One commenter preferred using a gradual 1 or 2 percent rate ''ramp,'' while another supported using a 200 basis point ''shock test.'' Because the Call Report data does not provide mark-to-market valuation of all investments, the 300 basis point rate shock is appropriate to capture both current and potential mark-to-market loss. As explained above, it is widely accepted as a basis for financial institution investment pre-purchase analysis.

Finally, a commenter observed that the proposed 6 percent and 14 percent weightings for credit union investments exceed the weightings applied to investments under the credit-risk-weighted capital requirements applicable to banks under their system of PCA. *See, e.g.,* 12 CFR 325.103. Indeed, the risk weightings proposed for credit unions are higher because the banks' credit-risk-weighted capital standards consider only credit risk, whereas CUMAA mandates that the RBNW requirement for credit unions take account of material risks, such as market risk, interest rate risk and other relevant risks. *See* § 1790d(d)(2); S. Rep. at 13.

Consistent with the NCUA Board's determination to treat similar investments similarly in terms of risk, the final rule abandons the proposed 15 percent threshold in favor of uniform classification by WAL—a more refined measure of risk. To implement this fundamental modification, the final rule establishes the following four WAL buckets: 1 year or less; greater than 1 year, but less than or equal to 3 years; greater than 3 years, but less than or equal to 10 years; and greater than 10 years. The four WAL buckets are risk-weighted at 3, 6, 12 and 20 percent, respectively. § 702.106(c). In the Call Report investment schedule, credit unions will now report their investments solely by WAL as specified in section 702.105.

In ascending order, the 3 percent weighting applied to the first WAL bucket, § 702.106(c)(1), is the same weighting originally proposed for the ''Low risk assets'' risk portfolio, as explained in section C.5(d) above. The 6 percent weighting applied to the second bucket, § 702.106(c)(2), is the same as that applied to the ''Average risk assets'' risk portfolio, § 702.106(e), and reflects the inclusion of average risk investments in the ''Investments'' risk portfolio. The 12 percent weighting applied to the third bucket, § 702.106(c)(3), mirrors the weighting that the ''Investments'' alternative component applies to the WAL bucket for greater than 5 years, but less than 7 years, § 702.107(c)(4), and reflects an average level of risk across the three more refined buckets of that component having a WAL greater than 3 years, but less than 10 years. Finally, the 20 percent weighting for the fourth bucket, § 702.106(c)(4), is based on the weighting that the ''Investments'' alternative component applies to investments with a WAL greater than 10 years. § 702.107(c)(6).

(d) *Low-risk assets.* The proposed standard component for ''Low risk assets'' applied a risk weighting of 3 percent to the entire contents of the corresponding risk portfolio. 65 FR at 8609. As explained in section C.5(d) above, the ''Low risk assets'' risk portfolio has been modified to consist only of cash on hand and the NCUSIF deposit. § 702.104(d). Because these assets carry virtually no risk, the final rule reduces to zero the risk weighting applied to the standard component for ''Low risk assets.'' § 702.106(d).

(e) *Average-risk assets.* The proposed standard component for ''Average risk assets'' applied a risk weighting of 6 percent to the entire contents of the corresponding risk portfolio. 65 FR at 8609. This weighting corresponds to the 6 percent net worth ratio required by CUMAA to be classified ''adequately capitalized.'' § 702.102(a)(2). No commenters addressed the risk weighting applied to this component; therefore, it is retained as proposed. § 702.106(e).

(f) *Loans sold with recourse.* The proposed standard component for ''Loans sold with recourse'' applies a risk weighting of 6 percent to the entire contents of the corresponding risk portfolio, 65 FR at 8609, to account for retained credit risk and the operational risk of servicing such loans. The 6 percent weighting also parallels the minimum weighting required for on-balance sheet loans that have similar credit risk exposure. *See, e.g.,* § 702.106(a)(1) and (e). Two commenters advocated replacing the fixed 6 percent weighting for this component with a sliding scale of weights based on the loss experience of like assets as measured by, for example, the five-year loan loss ratio. At present, the limited number of credit unions that sell or swap loans with recourse does not justify the increased burden of reporting the data needed to analyze loss experience for this purpose. Accordingly, the final rule retains the fixed 6 percent risk weighting proposed for this component. § 702.106(f).

(g) *Unused member business loan commitments.* The proposed standard component for ''Unused member business loans'' applied a risk weighting of 6 percent to the entire contents of the corresponding risk portfolio. 65 FR 8609. Eleven commenters invited NCUA to reduce the weighting for this component to between 3 and 4.5 percent, but generally gave no rationale. Others proposed inserting a threshold to divide the contents of the portfolio according to a minimum percentage of either assets, equity, or an historical rate at which MBL commitments convert to actual loans. The commenters would give the tier below that threshold a zero percent weighting. No empirical evidence was provided to support weighting different portions of the portfolio differently, much less to support weighting any portion of it at zero. Accordingly, the final rule retains the risk weighting for this standard component without modification. § 702.106(g).

(h) *Allowance.* The proposed standard component for the ''Allowance'' risk portfolio applies a risk weighting of negative 100 percent to the entire contents of the corresponding risk portfolio (which itself is limited to the equivalent of 1.5 percent of total loans). § 702.106(h). This effectively offsets the RBNW requirement otherwise resulting from the standard calculation, to reflect mitigation of risk through reserving for loan losses in the ALL. No commenters addressed the negative 100 percent risk weighting applied to this component to produce a credit against the RBNW requirement; therefore, it is retained as proposed. § 702.106(h).

8. Section 702.107—Alternative Components for Standard Calculation.

The third step of the three-step process gives a credit union the option to reduce the amount of its RBNW requirement under the standard calculation. To implement that step, section 702.107 (formerly section 702.106) multiplies the different remaining maturity or WAL buckets in each of three risk portfolios representing above average risk by a corresponding risk weighting to yield an ''alternative component.'' *See* Table 4 in § 702.107, and Appendix F. Compared to the standard components, the alternative components classify real estate loans, member business loans and investments in finer remaining maturity and WAL increments based on additional data provided by the credit union. Each alternative component that produces a smaller percentage than its

corresponding standard component may then be substituted for its counterpart in section 702.106 to reduce the RBNW requirement originally determined under the standard calculation.

The sole commenter addressing the structure of section 702.107 insisted upon allowing all or none of the alternative components to be substituted for their counterpart standard components. NCUA disagrees, preferring to give credit unions maximum flexibility in meeting an RBNW requirement. Therefore, the final rule retains the proposed alternative components, modified as follows in section 702.107:

(a) *Long-term real estate loans.* The proposed alternative component for ''Long-term real estate loans '' divided the contents of the corresponding risk portfolio by remaining maturity buckets: greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 12 years; greater than 12, but less than or equal to 20 years; and greater than 20 years. The four remaining maturity buckets were weighted at 6, 8, 12 and 16 percent, respectively. 65 FR at 8610–8611. The sum of the weighted buckets equals the ''alternative component.''

Seeking wholesale modification, one commenter condemned this alternative component as completely unnecessary, while another praised it as important in aiding credit unions to comply with PCA. Two commenters urged NCUA to require reporting of real estate loan balances by WAL instead of remaining maturity. Due to the inherent difficulty of relying on objective data in the Call Report to validate prepayment assumptions that affect the WAL of long-term real estate loans, NCUA considers remaining maturity to be the most reliable and least burdensome means of reporting real estate loans.

Ten other commenters generally sought to modify the maturity buckets and corresponding risk weightings. Two protested that the weightings were too harsh and should be adjusted downward to account for low LTV ratios. In contrast, a single commenter felt the weightings were too low. Two others indicated that the maturity ranges of the buckets were too broad, while another insisted there were too many buckets. Upon reconsideration, NCUA considers the maturity ranges of the buckets and all but one of the risk weightings to be reasonable based on examiner judgment of credit risk and interest rate risk in typical fixed-rate real estate loans.

The final rule modifies this alternative component in two respects. First, to parallel the 5-year maturity threshold adopted in the corresponding risk portfolio, § 702.104(a), the 3-to-5 year remaining maturity bucket is deleted altogether from the ''Long-term real estate loans'' alternative component. Second, to parallel the 14 percent weighting adopted for loans above the 25 percent threshold in the corresponding standard component, § 702.106(a)(2), the weighting applied in the alternative component to the remaining maturity bucket for loans in excess of 20 years is reduced from 16 to 14 percent. § 702.107(a)(3); see Appendix C. The final rule otherwise retains the proposed alternative component without modification.

(b) *Member business loans outstanding.* The proposed alternative component for ''Member business loans outstanding'' categorized the contents of the corresponding risk portfolio first by fixed-versus variable-rate MBLs, and then by remaining maturity in five buckets for each category—3 years or less; greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 7 years; greater than 7, but less than or equal to 12 years; and greater than 12 years.[13] 65 FR at 8610–8611. The five maturity buckets for fixed-rate MBLs were weighted at 6, 9, 12, 14 and 16 percent, respectively. The five maturity buckets for variable-rate MBLs were weighted at 6, 8, 10, 12 and 14 percent, respectively. The sum of the weighted buckets equals the ''alternative component.''

Two commenters addressed this alternative component, suggesting structural modifications. The first argued that fixed-rate MBLs should be classified by WAL to take account of the interest rate premium, but that variable-rate MBLs should be weighted at a static 6 percent, regardless of WAL or remaining maturity, since it is unrealistic to require reserves equivalent to the decline in market value. The second commenter proposed weighting MBLs on a sliding scale to take account of the LTV ratios, *e.g.,* 6 percent for an LTV ratio of less than 60 percent, and a 7 percent weighting for an LTV ratio between 60 and 70 percent.

NCUA declines to depart from the proposed rule for the following reasons. First, as explained in the preceding section, due to the inherent difficulty of relying on objective Call Report data to validate prepayment assumptions, NCUA considers remaining maturity to be the most reliable and least burdensome means of reporting MBLs. Second, while the value of a variable-rate MBL may decline less in value than a similar fixed-rate MBL as a result of a given interest rate change, credit risk of a variable-rate MBL typically increases in a higher rate environment, as the borrower is forced to meet increased interest expense burden. Third, the proposed rule already recognized the inherent variation in risk between fixed-rate and variable-rate MBLs; in the 3-to-5 year remaining maturity bucket, the weighting applied to fixed-rate MBLs is 100 basis points higher than that applied to variable-rate MBLs; in the three buckets for remaining maturities greater than 5 years, the weighting applied to fixed-rate MBLs is 200 basis points higher than that applied to variable-rate MBLs. 65 FR at 8611 (Table 4.b.).

For these reasons, the final rule retains this alternative component without modification. § 702.107(b) and Appendix D.

(c) *Investments.* The proposed alternative component for ''Long-term investments'' (here renamed simply ''Investments'') classified the contents of the corresponding risk portfolio into four WAL buckets: greater than 3, but less than or equal to 5 years; greater than 5, but less than or equal to 7 years; greater than 7, but less than or equal to 10 years; and greater than 10 years. The four WAL buckets are weighted at 8, 12, 16 and 20 percent, respectively. 65 FR 8604. The sum of the weighted buckets yields the alternative component.

According to one commenter, NCUA did not select representative securities with sufficient interest rate risk, resulting in inadequate weightings. Although the representative securities reflect the shorter end of each WAL bucket, NCUA's research indicates that the proposed weighting applied to each WAL bucket approximates the economic value exposure. 65 FR at 8605. In addition, these securities implicitly acknowledge that credit union liabilities typically do not all reset overnight. As a result, the proposed weightings are adequate to protect the NCUSIF from material risk, and do not need to be increased.

Protesting that the proposed WAL buckets do not adequately recognize WAL differences within buckets, another commenter compared the U.S. Securities and Exchange Commission's (''SEC'') use of smaller ''haircuts'' (*i.e.,* percentage deductions) in computing net capital requirements for broker-dealers. 17 C.F.R. 240.15c3–1(c)(2)(vi).

[13] For federally-chartered credit unions, maturity of MBLs is limited to 12 years, except ''lines of credit are not subject to a statutory or regulatory maturity limit.'' 12 C.F.R. 701.21(c)(4). This limit does not apply to MBLs and lines of credit issued by federally-insured, State-chartered credit unions. Thus, the alternative component for MBLs includes a bucket to accommodate MBLs and lines of credit ''with a remaining maturity greater than 12 years.'' § 702.107(b)(1)(v) and (b)(2)(v).

However, the SEC uses haircuts in what is generally a marked-to-market environment, and broker-dealers subject to its requirements are able to issue equity to increase net worth. In contrast, investments by credit unions generally are not marked-to-market. Even a credit union's gain or loss on ''available-for-sale'' securities is not reflected in net worth. *See* § 702.2(f); 65 FR at 8565. Further, credit unions typically cannot issue equity instruments to increase net worth.

Principally to capture cash on deposit and cash equivalents (formerly within the ''Low risk assets'' risk portfolio) and other investments (formerly in the ''Average risk assets'' risk portfolio), the final rule modifies the alternative component for ''Investments'' by adding two buckets at the bottom of the WAL scale: one for investments having a WAL of one year or less, and another for investments with a WAL of greater than one year but less than or equal to 3 years. These buckets are weighted at 3 percent and 6 percent, respectively. § 702.107(c)(1) and (2), and Appendix E. This alternative component is otherwise unchanged from the proposed rule.

9. Section 702.108—Risk Mitigation Credit To Reduce Risk-Based Net Worth Requirement.

Sixty-four commenters appealed to the NCUA Board to adopt a subjective or quantitative means for credit unions to demonstrate that the actual level of risk exposure to the NCUSIF is less than that indicated by the RBNW requirement resulting from the standard calculation, § 702.106, or alternative components, § 702.107.

To recognize mitigation of interest rate risk, forty-four commenters suggested considering the structure of funding liabilities and the results of ''hedging'' strategies. Commenters generally advocated flexibility toward sophisticated credit unions that implement internal modeling of an economic value exposure measure such as net economic value (''NEV''). A few commenters urged NCUA to consider a maturity gap, a ''matched book,'' or an earnings exposure measure such as income simulation. For example, one commenter argued for an adjustment to the RBNW requirement in response to internal modeling that demonstrates limited interest rate risk through an NEV fluctuation calculation, with the calculation to be certified by NCUA. More subjectively, another commenter proposed an RBNW adjustment in consideration of a credit union's history, policies, practices, and risk management techniques.

To recognize mitigation of credit risk, fourteen commenters recommended considering the impact of such quantitative factors as low LTV ratio and private mortgage insurance. Ten advocated evaluating the quality of loan underwriting and standards.

Upon consideration of the comments, the NCUA Board is persuaded to permit credit unions to demonstrate interest rate risk mitigation through internal modeling of an economic value exposure measure such as NEV, and to demonstrate credit risk mitigation through quantitative indicators of below average credit risk in loan portfolios. To this end, the final rule introduces a ''risk mitigation credit'' (''RMC'') to offset a credit union's applicable RBNW requirement.

Under section 702.108, a credit union which fails to meet its applicable RBNW requirement under both the standard calculation, § 702.106, and the alternative components, § 702.107, may apply to the NCUA Board for an RMC to reduce that requirement. The NCUA Board may, in its discretion, grant an RMC upon proof of mitigation of credit risk, or interest rate risk as demonstrated by economic value exposure measures. To ensure uniformity, an RMC request will be evaluated according to guidelines to be duly adopted by the NCUA Board. § 702.108(a).

In the case of a FISCU seeking an RMC, the request must first be submitted to the appropriate State official (as defined in 12 C.F.R. 702.2(b) and appropriate Regional Director having jurisdiction over the FISCU. § 702.108(b)(1). When evaluating a FISCU's request, the NCUA Board is required to ''consult and seek to work cooperatively'' with the appropriate State official and to provide prompt notice to him or her of its decision on the request. § 702.108(b)(2).

The RMC is available only to credit unions which otherwise fail an RBNW requirement, because of the substantial commitment of NCUA resources required to administer the process of evaluating and deciding RMC applications. NCUA will be responsible for ensuring the validity and reliability of the quantitative measures used to demonstrate mitigation of risk through individual qualitative assessment of each applicant credit union. Under guidelines to be adopted before the effective date of the final rule, NCUA envisions a process for evaluating RMC applications which resembles the process used to consider requests for expanded authority by corporate credit unions under Appendix B to part 704, 12 C.F.R. 704.

D. General Comments on Proposed Rule

1. *Regulatory capital.* Numerous commenters reiterated the call for new forms of ''regulatory capital'' to play a role in PCA. NCUA may have the statutory authority to permit new sources of capital for federally-chartered credit unions. 12 U.S.C. 1757(7), 1757(9) (permitting NCUA to authorize regulatory capital in the form of shares and subordinated debt). However, CUMAA's express, limited definition of net worth—retained earnings under GAAP—clearly precludes all but low income-designated credit unions from classifying such regulatory capital as net worth for PCA purposes. § 1790d(o)(2). Nevertheless, NCUA recognizes that, if established, regulatory capital would be available to absorb losses, thereby insulating the NCUSIF from such losses. *See* § 702.206(e) (criterion in evaluating net worth restoration plans). Depending on how it is structured, regulatory capital on the balance sheet of a credit union that meets the definition of ''complex'' could conceivably reduce the risk for which the RBNW requirement is designed to compensate. In the future, therefore, NCUA may consider proposals to amend part 702 to allow regulatory capital to offset an RBNW requirement. *See, e.g.,* § 702.106(h) (''Allowance'' component).

2. *Banking industry trade association comments.* In its comment letter, a trade association of the banking industry made four principal comments on the proposed rule. First, that the final rule should exempt credit unions having assets of $10 million or less. This proposal to establish a minimum asset floor, made by many commenters, is adopted. Second, that a credit union should be deemed ''complex'' if it has either $50 million or more in assets, any MBLs in its asset portfolio, or any investments for which it is required to submit a quarterly monitoring report to NCUA. *See* 12 C.F.R. 703.70(a), 703.90(b). These three sweeping criteria, while simple, are overwhelmingly overinclusive; NCUA's objective is to develop an RBNW requirement that is tailored to a credit union's individual risk profile. Third, that CUMAA and the Treasury Department intended that NCUA model the RBNW requirement on the banks' risk-based capital framework. On the contrary, neither CUMAA nor the Treasury Department envisioned a clone of the banks' risk-based capital standards; rather, Congress instructed NCUA to develop a credit union-specific RBNW requirement, § 1790d(i), which takes account of a full range of relevant risks. S. Rep. at 13. As explained in section C.7(d) above, the

banks' approach addresses credit risk only. Third, that the proposed rule fails to take account of differences in credit quality among assets. The banks' risk-based capital standards create many broad categories of assets and do not further distinguish credit quality within a category. The final rule establishes fewer categories (*i.e.,* risk portfolios, § 702.104) and designates risk weightings to account for a broader range of risks (*e.g.,* credit and interest rate risk). As explained in section C.4. above, NCUA's approach efficiently captures the risks to the NCUSIF that are the intended target of the RBNW requirement.

3. *Recognition of unrealized gains and losses.* Five commenters inquired about treatment of unrealized gains and losses on ''available-for-sale'' securities under SFAS 115. NCUA research indicated that failure to adjust net worth to reflect such gains and losses would rarely result in artificially misstating a credit union's net worth category classification. 65 FR at 8565. Thus, neither part 702 nor this final rule recognizes such gains and losses. NCUA reiterates that unrealized gains and losses are not reflected in net worth, the numerator of the net worth ratio, but do affect the denominator, total assets. § 702.2(f).

4. ''*PCA Oversight Task Force.*'' Ten commenters requested NCUA to periodically review implementation of the final rule and to revise it as needed. Another commenter was concerned that NCUA would modify the final rule in response to changing economic conditions, without giving credit unions sufficient notice and opportunity to comply. In response to these concerns, the NCUA Board in February 2000 established a ''PCA Oversight Task Force'' and directed its members to review at least a full year of implementation of PCA and to recommend modifications in the Fall of 2001. Any such modifications (apart from RMC guidelines) will be made by formal rulemaking, including public notice and an opportunity to comment.

5. *Method of calculating total assets.* Several commenters inquired why a credit union is required to use its calendar quarter-end account balances to calculate an RBNW requirement, but may elect among four methods to calculate total assets in determining its net worth ratio. *See* § 702.2(j). Similarly, another proposed calculating the RBNW requirement using average assets. The RBNW requirement must rely on quarter-end balances, rather than average balances, for consistency; because Call Report asset accounts are reported as of calendar quarter-end, the denominator for the eight ''risk portfolios'' also must be calendar quarter-end total assets. Otherwise, the sum of the balances in asset accounts (reported on a calendar quarter-end basis) would not necessarily equal the total assets (on other than a calendar quarter-end basis). To reconstruct the Call Report so that asset accounts are reported on an average basis does not appear to be cost justified for NCUA or for credit unions at this time.

E. Impact of Final Rule

Under the proposed rule's four-trigger test, December 1999 Call Report data indicates that an estimated 1408 credit unions, or 13.2 percent of all credit unions, met the definition of ''complex'' and would be required to meet an RBNW requirement. *Compare* 65 FR at 8605 (6/99 data). As a result, an estimated twelve credit unions—representing 2.3 percent of credit unions defined as ''complex'' and .08 percent of all credit unions—would have failed their RBNW requirement under the proposed standard calculation.

By contrast, December 1999 Call Report data indicates the final rule's minimum asset ''floor'' would exempt 6195 credit unions having assets of $10 million or less. Of the remaining 4434 credit unions, 3982 would fall below the minimum 6 percent RBNW ''floor.'' Thus, a total of 96 percent of all credit unions would be exempt from meeting an RBNW requirement at the outset.

The remaining 452 credit unions, by virtue of having an RBNW requirement in excess of 6 percent, would meet the definition of ''complex'' and be required to meet an ''applicable risk-based net worth requirement.'' § 702.103(a). Among these, the average RBNW requirement is estimated at 6.8 percent. Seventy-five percent of these credit unions have an RBNW requirement of 7.02 percent or less. For 90 percent of them, the RBNW requirement is 7.83 percent or less.

In contrast, the average net worth ratio is an estimated 12.16 percent—more than 500 basis points higher than the average RBNW requirement. As a result, only an estimated 17 credit unions—representing 3.7 percent of the 452 credit unions meeting the definition of ''complex,'' and .0015 percent of all credit unions—would have failed their RBNW requirement under the standard calculation. § 702.106. Some of these undoubtedly would meet that requirement by substituting alternative components, § 702.107, or by obtaining an offsetting RMC. § 702.108.

As Table 1 below indicates, as asset size increases toward $500 million, it becomes more likely that an RBNW requirement will be applicable.

TABLE 1.—ESTIMATED APPLICABILITY AND IMPACT OF RBNW REQUIREMENT [14]

Source: 12/99 data: Range of total assets for credit unions (CUs) > $10 million (in $millions)	A Number of CUs >$10 million	B Number of CUs to which RBNW applies	C Percentage of CUs to which RBNW applies /All CUs B/A = C	D Percentage of All CUs to which RBNW applies B/B total = D	E Estimated number failing RBNW
Greater than $500	122	19	15.6%	4.2%	0
Greater than $100 to $500	698	137	19.6%	30.3%	5
Greater than $50 to $100	688	88	12.8%	19.5%	5
Greater than $20 to $50	1,473	133	9.0%	29.4%	5
Greater than $15 to $20	572	34	5.9%	7.5%	0
Greater than $10 to $15	881	41	4.7%	9.1%	2

TABLE 1.—ESTIMATED APPLICABILITY AND IMPACT OF RBNW REQUIREMENT [14]—Continued

Source: 12/99 data: Range of total assets for credit unions (CUs) > $10 million (in $millions)	A Number of CUs >$10 million	B Number of CUs to which RBNW applies	C Percentage of CUs to which RBNW applies /All CUs B/A = C	D Percentage of All CUs to which RBNW applies B/B total = D	E Estimated number failing RBNW
Total	4,434	452	10.2%		17

[14] NCUA has relied on estimates to assess the impact of certain modifications to the final rule because the present Call Report does not collect the necessary data in sufficient detail. As a result, the use of Call Report data has the following impact: (1) the ''Long-term real estate loans'' risk portfolio includes loans with a remaining maturity between 3 to 5 years, resulting in an overestimate of the RBNW requirement under the standard calculation, § 702.104(a); (2) the ''Investments'' risk portfolio includes mutual funds in the WAL bucket of one year or less, resulting in an underestimate of the RBNW requirement under the standard calculation, §§ 702.104(c), 702.105(a)(1); (3) the ''Low risk assets'' risk portfolio includes cash on deposit and cash equivalents, resulting in an underestimate of the RBNW requirement under the standard calculation, § 702.104(d); and (4) the ''Unused member business loan commitments'' risk portfolio includes only unused commitments for commercial real estate construction and land development, resulting in an underestimate of the RBNW requirement under the standard calculation. § 702.104(g).

The estimates in Table 1 above are based on December 1999 Call Report data as indicated in Table 2 below. The line item references are subject to change when the Call Report is revised to conform with part 702 and to incorporate the ''PCA Worksheet.''

TABLE 2.—PRESENT CALL REPORT LINE ITEMS FOR ESTIMATING RBNW REQUIREMENT

Risk Portfolio	Call report items used to estimate risk portfolios	Call report estimate
(a) Long-term real estate loans.	Total real estate loans less:	Schedule A, line 3 (Acct. codes 710) less:
	i. The amount of real estate loans that meet the definition of a member business loan.	i. Schedule A, line 9 (Acct. code 718).
	ii. Real estate loans that will contractually refinance, reprice or mature within 3 years.	ii. Schedule A, line 11 (Acct. code 712).
(b) Member business loans	Outstanding member business loans	Schedule B, line 3 (Acct. code 400).
(c) Investments	All credit union investments categorized by weighted-average life or repricing interval:.	Schedule C:
	i. Less than 1 Year	i. Line 12 (Acct. code 799A).
	ii. 1–3 Years	ii. Line 12 (Acct. code 799B).
	iii. 3–10 Years	iii. Line 12 (Acct code 799C).
	iv. Greater than 10 Years	iv. Line 12 (Acct code 799D).
(d) Low-risk Assets	i. Cash and cash equivalents	i. Assets, line 1 (Acct. code 730).
	ii. NCUSIF Deposit	ii. Assets line 25 (Acct code 794).
(e) Average-risk Assets	Total Assets less: Risk Portfolios (a) through (d)	Assets, line 27 (Acct. code 010) less: Risk Portfolio line items (a) through (d) above.
(f) Loans sold with recourse	Outstanding balance of loans sold or swapped with recourse.	Schedule G, line 2.B. (Acct. code 819).
(g) Unused MBL Commitments.	Commercial real estate construction and land development.	Schedule G, line 1.D. (Acct. code 814).
(h) Allowance	Allowance for Loan and Lease Losses	Assets, line 21 (Acct. code 719) (Limited to equivalent of 1.5 percent of total loans.).

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a final regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The final rule establishes an RBNW requirement to apply to federally-insured credit unions which meet the definition of ''complex.'' The RBNW requirement is expressly mandated by CUMAA as a component of NCUA's system of prompt corrective action. § 1790d(d).

For the purpose of this analysis, credit unions under $1 million in assets will be considered small entities. As of June 30, 1999, there were 1,690 such entities with a total of $807.3 million in assets, with an average asset size of $0.5 million. These small entities make up 15.6 percent of all credit unions, but only 0.2 percent of all credit union assets.

The proposed rule implements a three-step process involving eight ''risk portfolios.'' The first step is to determine whether a credit union meets the definition of ''complex'' and an RBNW requirement is applicable, based on a minimum asset size of $10 million and minimum RBNW requirement of 6 percent. The second step uses eight standard components (which multiply the ''risk portfolios'' by corresponding risk weightings) to determine the applicable RBNW requirement. The third step provides a credit union the opportunity to substitute any of three specific standard components with a corresponding alternative component that may reduce the RBNW requirement against which the credit union's quarterly net worth ratio is measured. Credit unions that do not meet an applicable RBNW requirement under both the standard calculation and the alternative components may apply for a risk mitigation credit to reduce that

requirement to reflect mitigation of credit risk or interest rate risk.

The NCUA Board does not believe that the final rule would impose reporting or recordkeeping burdens that require specialized professional skills not available to small entities. Further, NCUA estimates that, due to the $10 million asset minimum, none of these small entities will be subject to an applicable RBNW requirement under the additional requirements of the final rule. There are no other relevant federal rules that duplicate, overlap, or conflict with the final rule.

Paperwork Reduction Act

The reporting requirements in this rule have been submitted to the Office of Management and Budget. Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB number. Control number 3133–0161 has been issued and will be displayed in the table at 12 CFR part 795.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This final rule will apply to all federally-insured credit unions, including federally-insured, State-chartered credit unions. Accordingly, it may have a direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of prompt corrective action to apply to all federally-insured credit unions. Throughout the rulemaking process, NCUA staff has consulted with a committee of representative state regulators regarding the impact of the RBNW requirement on state-chartered credit unions. The committee's comments and suggestions are reflected in the final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedure Act, 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule.

List of Subjects

12 CFR Part 700

Credit unions.

12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 13, 2000.

Becky Baker,

Secretary of the Board.

Accordingly, 12 CFR parts 700 and 702 are amended as set forth below:

PART 700—DEFINITIONS

1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757(6) and 1766.

§ 700.1 [Amended]

2. Section 700.1 is amended by removing paragraph (i) and redesignating paragraphs (j) and (k) as paragraphs (i) and (j), respectively.

PART 702—PROMPT CORRECTIVE ACTION

3. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

4. Section 702.2 is amended in paragraph (j)(2) by removing ''702.106'' and adding ''702.108'' in its place; and by adding paragraph (k) to read as follows:

§ 702.2 Definitions

* * * * *

(k) *Weighted-average life* means the weighted-average time to the return of a dollar of principal, calculated by multiplying each portion of principal received by the time at which it is expected to be received (based on a reasonable and supportable estimate of that time), and then summing and dividing by the total amount of principal.

§ 702.102 [Amended]

5. Section 702.102 is amended in paragraphs (a)(1), (a)(2) and (a)(3) by removing the phrase ''702.105 and 702.106'' and by adding ''702.103 through 702.108'' in its place.

6. Sections 702.103, 702.104, 702.105, 702.106, 702.107 and 702.108 are added to subpart A of part 702 to read as follows:

§ 702.103 Applicability of risk-based net worth requirement.

(a) *Criteria.* For purposes of § 702.102, a credit union is defined as ''complex'' and a risk-based net worth requirement is applicable only if the credit union meets both of the following criteria as reflected its most recent Call Report:

(1) *Minimum asset size.* Its quarter-end total assets exceed ten million dollars ($10,000,000); and

(2) *Minimum RBNW calculation.* Its risk-based net worth requirement as calculated under § 702.106 exceeds six percent (6%).

(b) *Optional Call Report filing.* For purposes of this part, a credit union which is required to file a Call Report only semiannually may elect to file a Call Report for the first and/or third quarter of a calendar year.

§ 702.104 Risk portfolios defined.

A risk portfolio is a portfolio of assets, liabilities, or contingent liabilities as specified below, each expressed as a percentage of the credit union's quarter-end total assets reflected in its most recent Call Report, rounded to two decimal places (Table 1):

(a) *Long-term real estate loans.* Total real estate loans and real estate lines of credit outstanding, exclusive of those outstanding that will contractually refinance, reprice or mature within the next five (5) years, and exclusive of all member business loans (as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20);

(b) *Member business loans outstanding.* All member business loans as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20;

(c) *Investments.* Investments as defined by 12 CFR 703.150 or applicable State law, including investments in CUSOs (as defined by § 702.2(d));

(d) *Low-risk assets.* Cash on hand (*e.g.,* coin and currency, including vault, ATM and teller cash) and the NCUSIF deposit;

(e) *Average-risk assets.* One hundred percent (100%) of total assets minus the sum of the risk portfolios in paragraphs (a) through (d) of this section;

(f) *Loans sold with recourse.* Outstanding balance of loans sold or swapped with recourse, excluding loans sold to the secondary mortgage market that have representations and warranties consistent with those customarily required by the U.S. Government and government sponsored enterprises;

(g) *Unused member business loan commitments.* Unused commitments for member business loans as defined in 12 CFR 723.1 or as approved under 12 CFR 723.20; and

(h) *Allowance.* The Allowance for Loan and Lease Losses not to exceed the

equivalent of one and one-half percent (1.5%) of total loans outstanding.

TABLE 1 -- §702.104 RISK PORTFOLIOS DEFINED

Risk portfolio	*Assets, liabilities or contingent liabilities*
(a) Long-term real estate loans	Total real estate loans and real estate lines of credit (excluding MBLs) with a maturity (and next rate adjustment period if variable rate) greater than 5 years
(b) MBLs outstanding	Member business loans outstanding
(c) Investments	As defined by federal regulation or applicable State law.
(d) Low-risk assets	Cash on hand and NCUSIF deposit.
(e) Average-risk assets	100% of total assets minus sum of risk portfolios above
(f) Loans sold with recourse	Outstanding balance of loans sold or swapped with recourse, except for loans sold to the secondary mortgage market with a recourse period of 1 year or less.
(g) Unused MBL commitments	Unused commitments for MBLs
(h) Allowance	Allowance for Loan and Lease Losses limited to equivalent of 1.50 percent of total loans

§ 702.105 Weighted-average life of investments.

Except as provided below (Table 2), the weighted-average life of an investment for purposes of §§ 702.106(c) and 702.107(c) is defined pursuant to § 702.2(k):

(a) *Registered investment companies and collective investment funds.*

(1) For investments in registered investment companies (*e.g.,* mutual funds) and collective investment funds, the weighted-average life is defined as the maximum weighted-average life disclosed, directly or indirectly, in the prospectus or trust instrument;

(2) For investments in money market funds, as defined in 17 CFR 270.2a–7, and collective investment funds operated in accordance with short-term investment fund rules set forth in 12 CFR 9.18(b)(4)(ii)(B)(1)–(3), the weighted-average life is defined as one (1) year or less; and

(3) For other investments in registered investment companies or collective investment funds, the weighted-average life is defined as greater than five (5) years, but less than or equal to seven (7) years;

(b) *Callable fixed-rate debt obligations and deposits.* For fixed-rate debt obligations and deposits that are callable in whole, the weighted-average life is defined as the period remaining to the maturity date;

(c) *Variable-rate debt obligations and deposits.* For variable-rate debt obligations and deposits, the weighted-average life is defined as the period remaining to the next rate adjustment date;

(d) *Capital in mixed-ownership Government corporations and corporate credit unions.* For capital stock in mixed-ownership Government corporations, as defined in 31 U.S.C. 9101(2), and member paid-in capital and membership capital in corporate credit unions, as defined in 12 CFR 704.2, the weighted-average life is defined as greater than one (1) year, but less than or equal to three (3) years;

(e) *Investments in CUSOs.* For investments in CUSOs (as defined in § 702.2(d)), the weighted-average life is defined as greater than one (1) year, but less than or equal to three (3) years; and

(f) *Other equity securities.* For other equity securities, the weighted average life is defined as greater than ten (10) years.

TABLE 2 -- §702.105 WEIGHTED-AVERAGE LIFE OF INVESTMENTS

Investment	*Weighted-average life*
(a) Registered investment companies and collective investment funds	i. *Registered investment companies and collective investment funds*: As disclosed in prospectus or trust instrument, but if not disclosed, greater than five (5) years, but less than or equal to seven (7) years. ii. *Money market funds and STIFs*: One (1) year or less.
(b) Callable fixed-rate debt obligations and deposits	Period remaining to maturity date.
(c) Variable-rate debt obligations and deposits	Period remaining to next rate adjustment date.
(d) Capital in mixed-ownership Government corporations and corporate credit unions	Greater than one (1) year, but less than or equal to three (3) years.
(e) Investments in CUSOs	Greater than one (1) year, but less than or equal to three (3) years.
(f) Other equity securities	Greater than ten (10) years.

§ 702.106 Standard calculation of risk-based net worth requirement.

A credit union's risk-based net worth requirement is the aggregate of the following standard component amounts, each expressed as a percentage of the credit union's quarter-end total assets as reflected in its most recent Call Report, rounded to two decimal places (Table 3):

(a) *Long-term real estate loans.* The sum of:

(1) Six percent (6%) of the amount of long-term real estate loans less than or equal to twenty-five percent (25%) of total assets; and

(2) Fourteen percent (14%) of the amount in excess of twenty-five percent (25%) of total assets;

(b) *Member business loans outstanding.* The sum of:

(1) Six percent (6%) of the amount of member business loans outstanding less than or equal to twelve and one-quarter percent (12.25%) of total assets; and

(2) Fourteen percent (14%) of the amount in excess of twelve and one-quarter percent (12.25%) of total assets;

(c) *Investments.* The sum of:

(1) Three percent (3%) of the amount of investments with a weighted-average life (as specified in § 702.105 above) of one (1) year or less;

(2) Six percent (6%) of the amount of investments with a weighted-average life greater than one (1) year, but less than or equal to three (3) years;

(3) Twelve percent (12%) of the amount of investments with a weighted-average life greater than three (3) years, but less than or equal to ten (10) years; and

(4) Twenty percent (20%) of the amount of investments with a weighted-average life greater than ten (10) years;

(d) *Low-risk assets.* Zero percent (0%) of the entire portfolio of low-risk assets;

(e) *Average-risk assets.* Six percent (6%) of the entire portfolio of average-risk assets;

(f) *Loans sold with recourse.* Six percent (6%) of the entire portfolio of loans sold with recourse;

(g) *Unused member business loan commitments.* Six percent (6%) of the entire portfolio of unused member business loan commitments; and

(h) *Allowance.* Negative one hundred percent (−100%) of the balance of the Allowance for Loan and Lease Losses account, not to exceed the equivalent of one and one-half percent (1.5%) of total loans outstanding.

TABLE 3 -- §702.106 STANDARD CALCULATION OF RBNW REQUIREMENT

Risk portfolio	*Amount of risk portfolio (as percent of quarter-end total assets) to be multiplied by risk weighting*	*Risk weighting*
(a) Long-term real estate loans	0 to 25.00% over 25.00%	.06 .14
(b) MBLs outstanding	0 to 12.25% over 12.25%	.06 .14
(c) Investments	*By weighted-average life*: 0 to 1 year >1year to 3 years >3 years to 10 years >10 years	.03 .06 .12 .20
(d) Low-risk assets	All %	.00
(e) Average-risk assets	All %	.06
(f) Loans sold with recourse	All %	.06
(g) Unused MBL commitments	All %	.06
(h) Allowance	Limited to equivalent of 1.50% of total loans (expressed as a percent of total assets)	(1.00)
A credit union's RBNW requirement is the sum of eight standard components. A standard component is calculated for each of the eight risk portfolios, equal to the sum of each amount of a risk portfolio times its risk weighting. A credit union is classified "undercapitalized" if its net worth ratio is less than its applicable RBNW requirement.		

§ 702.107 Alternative components for standard calculation.

A credit union may substitute one or more alternative components below, in place of the corresponding standard components in § 702.106 above, when any alternative component amount, expressed as a percentage of the credit union's quarter-end total assets as reflected in its most recent Call Report, rounded to two decimal places, is smaller (Table 4):

(a) *Long-term real estate loans.* The sum of:

(1) Eight percent (8%) of the amount of such loans with a remaining maturity of greater than 5 years, but less than or equal to 12 years;

(2) Twelve percent (12%) of the amount of such loans with a remaining maturity of greater than 12 years, but less than or equal to 20 years; and

(3) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 20 years;

(b) *Member business loans outstanding.* The sum of:

(1) *Fixed rate.* Fixed-rate member business loans outstanding as follows:

(i) Six percent (6%) of the amount of such loans with a remaining maturity of 3 or fewer years;

(ii) Nine percent (9%) of the amount of such loans with a remaining maturity greater than 3 years, but less than or equal to 5 years;

(iii) Twelve percent (12%) of the amount of such loans with a remaining maturity greater than 5 years, but less than or equal to 7 years;

(iv) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 7 years, but less than or equal to 12 years; and

(v) Sixteen percent (16%) of the amount of such loans with a remaining maturity greater than 12 years; and

(2) *Variable-rate.* Variable-rate member business loans outstanding as follows:

(i) Six percent (6%) of the amount of such loans with a remaining maturity of 3 or fewer years;

(ii) Eight percent (8%) of the amount of such loans with a remaining maturity greater than 3 years, but less than or equal to 5 years;

(iii) Ten percent (10%) of the amount of such loans with a remaining maturity greater than 5 years, but less than or equal to 7 years;

(iv) Twelve percent (12%) of the amount of such loans with a remaining maturity greater than 7 years, but less than or equal to 12 years; and

(v) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 12 years.

(c) *Investments.* The sum of:

(1) Three percent (3%) of the amount of investments with a weighted-average life (as specified in § 702.105 above) of one (1) year or less;

(2) Six percent (6%) of the amount of investments with a weighted-average life greater than one (1) year, but less than or equal to three (3) years;

(3) Eight percent (8%) of the amount of investments with a weighted-average life greater than three (3) years, but less than or equal to five (5) years;

(4) Twelve percent (12%) of the amount of investments with a weighted-average life greater than five (5) years, but less than or equal to seven (7) years;

(5) Sixteen percent (16%) of the amount of investments with a weighted-average life greater than seven (7) years, but less than or equal to ten (10) years; and

(6) Twenty percent (20%) of the amount of investments with a weighted-average life greater than ten (10) years.

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TABLE 4 -- §702.107 ALTERNATIVE COMPONENTS FOR STANDARD CALCULATION

(a) LONG-TERM REAL ESTATE LOANS

Amount of long-term real estate loans by remaining maturity	*Alternative risk weighting*
> 5 years to 12 years	.08
> 12 years to 20 years	.12
> 20 years	.14
The "alternative component" is the sum of each amount of the Long-term real estate loans risk portfolio by remaining maturity (as a percent of quarter-end total assets) times its alternative factor. Substitute for corresponding standard component if smaller.	

(b) MEMBER BUSINESS LOANS

Amount of member business loans by remaining maturity	*Alternative risk weighting*
Fixed-rate MBLs	
0 to 3 years	.06
> 3 years to 5 years	.09
> 5 years to 7 years	.12
> 7 years to 12 years	.14
> 12 years	.16
Variable-rate MBLs	
0 to 3 years	.06
> 3 years to 5 years	.08
> 5 years to 7 years	.10
> 7 years to 12 years	.12
> 12 years	.14
The "alternative component" is the sum of each amount of the member business loans risk portfolio by fixed and variable rate and by remaining maturity (as a percent of quarter-end total assets) times its alternative factor. Substitute for corresponding standard component if smaller.	

(c) INVESTMENTS

Amount of investments by weighted-average life	*Alternative risk weighting*
0 to 1 year	.03
>1 year to 3 years	.06
>3 years to 5 years	.08
>5 years to 7 years	.12
>7 years to 10 years	.16
> 10 years	.20
The "alternative component" is the sum of each amount of the Investments risk portfolio by weighted-average life (as a percent of quarter-end total assets) times its alternative factor. Substitute for corresponding standard component if smaller.	

§ 702.108 Risk mitigation credit to reduce risk-based net worth requirement.

(a) *Application for credit.* Upon application by a credit union which fails to meet its applicable risk-based net worth requirement, and pursuant to guidelines duly adopted by the NCUA Board, the NCUA Board may in its discretion grant a credit to reduce a risk-based net worth requirement under sections 702.106 and 702.107 upon proof of mitigation of:

(1) Credit risk; or

(2) Interest rate risk as demonstrated by economic value exposure measures.

(b) *Application by FISCU.* In the case of a FISCU seeking a risk mitigation credit—

(1) Before an application under paragraph (a) above may be submitted to the NCUA Board, it must be submitted in duplicate to the appropriate State official and the appropriate Regional Director; and

(2) The NCUA Board, when evaluating the application of a FISCU, shall consult and seek to work cooperatively with the appropriate State official, and shall provide prompt notice of its decision to the appropriate State official.

7. Appendices A through F are added to subpart A to read as follows:

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APPENDICES TO SUBPART A

APPENDIX A – EXAMPLE STANDARD COMPONENTS FOR RBNW REQUIREMENT, §702.106
(EXAMPLE CALCULATION IN BOLD)

Risk portfolio	*Dollar balance*	*Amount as percent of quarter-end total assets*	*Risk weighting*	*Amount times risk weighting*	*Standard component*
Quarter-end total assets	**200,000,000**	**100.0000 %**			
(a) Long-term real estate loans	**60,000,000**	**30.0000 % =**			**2.20 %**
Threshold amount: 0 to 25%		**25.0000 %**	.06	**1.5000 %**	
Excess amount: over 25%		**5.0000 %**	.14	**0.7000 %**	
(b) MBLs outstanding	**25,000,000**	**12.5000 % =**			**0.77 %**
Threshold amount: 0 to 12.25%		**12.2500 %**	.06	**0.7350 %**	
Excess amount: over 12.25%		**0.2500 %**	.14	**0.0350 %**	
(c) Investments	**50,000,000 =**	**25.0000 % =**			**1.51 %**
Weighted-average life:					
0 to 1 year	**24,000,000**	**12.0000 %**	.03	**0.3600 %**	
>1 year to 3 years	**15,000,000**	**7.5000 %**	.06	**0.4500 %**	
>3 years to 10 years	**10,000,000**	**5.0000 %**	.12	**0.6000 %**	
>10 years	**1,000,000**	**0.5000 %**	.20	**0.1000 %**	
(d) Low-risk assets	**4,000,000**	**2.0000 %**	.00		**0 %**
Sum of risk portfolios (a) through (d) above	**139,000,000**	**69.5000 %**			
(e) Average-risk assets	**61,000,000**	**30.5000 %**[a/]	.06		**1.83 %**
(f) Loans sold with recourse	**40,000,000**	**20.0000 %**	.06		**1.20 %**
(g) Unused MBL commitments	**5,000,000**	**2.5000 %**	.06		**0.15 %**
(h) Allowance	**2,040,000.00** [b/]	**1.0200 %**	(1.00)		**(1.02) %**
Sum of standard components: **RBNW requirement** [c/]					**6.64 %**

[a/] The Average-risk assets risk portfolio percent of quarter-end total assets equals 100 percent minus the sum of the percentages in the four risk portfolios above (i.e., Long-term real estate loans, MBLs outstanding, Investments, and Low-risk assets).
[b/] The Allowance risk portfolio is limited to the equivalent of 1.50 percent of total loans. For an example computation of the permitted dollar balance of Allowance, see worksheet in Appendix B below.
[c/] A credit union is classified "undercapitalized" if its net worth ratio is less than its applicable RBNW requirement. The dollar equivalent of RBNW requirement may be computed for informational purposes as the RBNW requirement percent of total assets.

APPENDIX B – ALLOWANCE RISK PORTFOLIO DOLLAR BALANCE WORKSHEET
(EXAMPLE CALCULATION IN BOLD)

Balance sheet account	***Dollar balance***	***Percent of total loans***	*Range of ALL permitted*	***Permitted ALL percent of total loans***	***Permitted dollar balance of Allowance***
Allowance for Loan and Lease Losses (ALL)	**2,400,000**	**1.7647%**	0 to 1.50%	**1.50%**	**2,040,000**
Total loans	**136,000,000**				

APPENDIX C – EXAMPLE LONG-TERM REAL ESTATE LOANS ALTERNATIVE COMPONENT, §702.107(a)
(EXAMPLE CALCULATION IN BOLD)

Remaining maturity	***Dollar balance of Long-term real estate loans by remaining maturity***	***Percent of total assets by remaining maturity***	*Alternative risk weighting*	***Alternative component***
> 5 years to 12 years	**40,000,000**	**20.0000 %**	.08	**1.6000 %**
> 12 years to 20 years	**15,000,000**	**7.5000 %**	.12	**0.9000 %**
> 20 years	**5,000,000**	**2.5000 %**	.14	**0.3500 %**
Sum of above equals Alternative component*				**2.85 %**

* Substitute for standard component if lower.

APPENDIX D – EXAMPLE OF MEMBER BUSINESS LOANS ALTERNATIVE COMPONENT, §702.107(b)
(EXAMPLE CALCULATION IN BOLD)

Remaining maturity	***Dollar balance of MBLs by remaining maturity***	***Percent of total assets by remaining maturity***	*Alternative risk weighting*	***Alternative component***
Fixed-rate MBLs				
0 to 3 years	**6,000,000**	**3.0000 %**	.06	**0.1800 %**
> 3 years to 5 years	**4,000,000**	**2.0000 %**	.09	**0.1800 %**
> 5 years to 7 years	**2,000,000**	**1.0000 %**	.12	**0.1200 %**
> 7 years to 12 years	**0**	**0.0000 %**	.14	**0.0000 %**
> 12 years	**0**	**0.0000 %**	.16	**0.0000 %**
Variable-rate MBLs				
0 to 3 years	**7,000,000**	**3.5000 %**	.06	**0.2100 %**
> 3 years to 5 years	**4,000,000**	**2.0000 %**	.08	**0.1600 %**
> 5 years to 7 years	**2,000,000**	**1.0000 %**	.10	**0.1000 %**
> 7 years to 12 years	**0**	**0.0000 %**	.12	**0.0000 %**
>12 years	**0**	**0.0000 %**	.14	**0.0000 %**
Sum of above equals Alternative component*				**0.95 %**

* Substitute for standard component if lower.

APPENDIX E -- EXAMPLE OF INVESTMENTS ALTERNATIVE COMPONENT, §702.107(c)
(EXAMPLE CALCULATION IN BOLD)

Weighted-average life	***Dollar balance of investments by weighted-average life***	***Percent of total assets by weighted-average life***	*Alternative risk weighting*	***Alternative component***
0 to 1 year	**24,000,000**	**12.0000 %**	.03	**0.3600 %**
> 1 year to 3 years	**15,000,000**	**7.5000 %**	.06	**0.4500 %**
> 3 years to 5 years	**8,000,000**	**4.0000 %**	.08	**0.3200 %**
> 5 years to 7 years	**1,000,000**	**0.5000 %**	.12	**0.0600 %**
> 7 years to 10 years	**1,000,000**	**0.5000 %**	.16	**0.0800 %**
> 10 years	**1,000,000**	**0.5000 %**	.20	**0.1000 %**
Sum of above equals Alternative component*				**1.37 %**

* Substitute for standard component if lower.

APPENDIX F -- EXAMPLE RBNW REQUIREMENT USING ALTERNATIVE COMPONENTS
(EXAMPLE CALCULATION IN BOLD)

Risk portfolio	***Standard component***	***Alternative component***	***Lower of standard or alternative component***
(a) Long-term real estate loans	**2.20 %**	**2.85 %**	**2.20 %**
(b) MBLs outstanding	**0.77 %**	**0.95 %**	**0.77 %**
(c) Investments	**1.51 %**	**1.37 %**	**1.37 %**
			Standard component
(d) Low-risk assets			**0 %**
(e) Average-risk assets			**1.83 %**
(f) Loans sold with recourse			**1.20 %**
(g) Unused MBL commitments			**0.15 %**
(h) Allowance			**(1.02) %**
RBNW requirement* Compare to Net Worth Ratio			**6.50 %**

* A credit union is "undercapitalized" if its net worth ratio is less than its applicable RBNW requirement.

8. Section 702.302 is amended by removing the phrase ''and any risk based net worth requirement applicable to a new credit union defined as 'complex' under §§ 702.103 through 702.106'' from paragraph (a); and by removing the phrase ''and also meets any applicable risk-based net worth requirement under §§ 702.105 and 702.106'' from paragraphs (c)(1), (c)(2) and (c)(3).

[FR Doc. 00–18278 Filed 7–19–00; 8:45 am]

BILLING CODE 7535–01–C

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The current 18 percent per year federal credit union loan rate is scheduled to revert to 15 percent on September 9, 2000, unless otherwise provided by the NCUA Board (Board). A 15 percent ceiling would restrict certain categories of credit and adversely affect the financial condition of a number of federal credit unions. At the same time prevailing market rates and economic conditions do not justify a rate higher than the current 18 percent ceiling. Accordingly, the Board hereby continues an 18 percent federal credit union loan rate ceiling for the period September 9, 2000, through March 8, 2002. Loans and lines of credit balances existing prior to May 18, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

DATES: Effective August 21, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel Gordon, Senior Investment Officer, (703) 518–6623.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for federal credit unions from one percent per month (12 percent per year) to 15 percent per year. It also authorized the Board to set a higher limit, after consulting with the Congress, the Department of Treasury and other federal financial agencies, for a period not to exceed 18 months, if the Board determined that: (1) money market interest rates have risen over the preceding six months; and (2) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in growth, liquidity, capital, and earnings.

On December 3, 1980, the Board determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for nine months to 21 percent. In the unstable environment of the first-half of the 1980s, the Board lowered the loan rate ceiling from 21 percent to 18 percent, effective May 18, 1987. This action was taken in an environment of falling market interest rates from 1980 to early 1987. The ceiling has remained at 18 percent to the present.

The Board believes that the 18 percent ceiling will permit credit unions to continue to meet their current lending programs, permit flexibility so that credit unions can react to any adverse economic developments, and ensure that any increase in the cost of funds would not affect the safety and soundness of federal credit unions.

The Board would prefer not to set loan interest rate ceilings for federal credit unions. Credit unions are cooperatives and balance loan and share rates consistent with the needs of their members and prevailing market interest rates. The Board supports free lending markets and the ability of federal credit union boards of directors to establish loan rates that reflect current market conditions and the interests of their members. Congress has, however, imposed loan rate ceilings since 1934. In 1979, Congress set the ceiling at 15 percent but authorized the Board to set a ceiling in excess of 15 percent, if conditions warrant. The following analysis justifies a ceiling above 15 percent, but at the same time does not support a ceiling above the current 18 percent. The Board is prepared to reconsider this action at any time should changes in economic conditions warrant.

Recent Economic Activity

A number of measures of inflation continue to reflect price pressures on the economy. The Gross Domestic Price Deflator, a broad measure of inflation, rose at a three percent annual rate in the first quarter, the largest increase since a similar rise in the first quarter of 1995. The Consumer Price Index rose 3.1 percent from May 1999 through May 2000, compared to 2.7 percent for all of last year. The personal consumption expenditure price index, a separate measure tied to Gross Domestic Product, rose at a 3.1 percent annual pace in the first quarter, above the 2.5 percent rate of increase in the last three months of 1999.

The economy is continuing to expand at a rapid rate increasing inflationary concerns. Gross Domestic Product grew at a very strong 5.5 percent annual rate in the first three months of this year, after a 7.3 percent increase in the fourth quarter of 1999 and a 5.7 percent rise in the third quarter of 1999. Consumer spending, which has been the engine of this long-term expansion, soared at 7.7 percent annual rate in the first quarter of 2000, the largest increase in 17 years. The University of Michigan's measure of consumer confidence remains close to the level reached last year, suggesting high consumer spending will be sustained.

Money Market Interest Rates

Inflationary concerns and expectations about the future level of economic activity have led to a substantial tightening by the Federal Reserve. Table 1 indicates that the Federal Reserve has raised its target fed funds rate six times between June 1999, when the target rate was increased from 4.75 percent to 5.00 percent, and June 2000, when the target rate was increased 50 basis points from 6.00 to 6.50 percent. In choosing to raise rates in May 2000, the Federal Reserve concluded that gains in worker productivity ''could no longer'' offset the impact of higher costs.

The 6.50 percent target rate is the highest such target in nine years. Although the Federal Reserve chose not to raise the target rate again last month, its accompanying statement suggested inflation is still of substantial concern. In its official statement, the Federal Reserve indicated that ''the risks continue to be weighted mainly toward conditions that may generate heightened inflation pressures in the foreseeable future * * * [s]igns that growth in demand is moving to a sustainable pace are still tentative and preliminary.''

Individual Federal Reserve officials have elaborated on the Federal Reserve's official statement. For example, the President of the Chicago Federal Reserve, Moskow, said, ''we still are in a period where aggregate demand is growing at a pace that is exceeding potential supply. * * * I haven't seen any significant adjustment up to this point.'' Richmond Federal Reserve President Broaddus said that core prices, excluding food and energy prices, ''have shown signs of acceleration.''

The implied rate on futures contracts for September is 6.70 percent, suggesting financial markets anticipate another increase in the fed funds target rate at the August Federal Reserve Open Market Committee meeting.

TABLE 1.—RECENT CHANGES IN FEDERAL RESERVE TARGET FED FUNDS RATE

Date	Fed funds target rate (percent)
May 2000	6.50
March 2000	6.00
February 2000	5.75
November 1999	5.50
August 1999	5.25
June 1999	5.00

Table 2 shows that that in the last six months there has been an increase in interest rates in the three-month to two-year maturities, of greatest relevance to a credit union's cost of funds.

TABLE 2.—YIELDS ON GOVERNMENT SECURITIES

Maturity	December 31, 1999 (percent)	June 30, 2000 (percent)	Change (percent)
3 month	5.31	5.82	.51
6month	5.73	6.19	.47
1 year	5.96	6.05	.09
2 year	6.24	6.35	.11
5 year	6.34	6.19	−.16
10 year	6.44	6.03	−.41

TABLE 2.—YIELDS ON GOVERNMENT SECURITIES—Continued

Maturity	December 31, 1999 (percent)	June 30, 2000 (percent)	Change (percent)
30 year	6.48	5.88	−.60

Financial Implications For Credit Unions

For at least 731 credit unions, representing 11[1] percent of the reporting federal credit unions, the most common rate on unsecured loans was above 15 percent. While the bulk of credit union lending is below 15 percent, small credit unions and credit unions that have instituted risk-based lending programs require interest rates above 15 percent to maintain liquidity, capital, earnings, and growth. Loans to members who have not yet established a credit history or have weak credit histories have more credit risk. Credit unions must charge rates to cover the potential of higher than usual losses for such loans. There are undoubtedly more than 731 federal credit unions charging over 15 percent for unsecured loans to such members. Many credit unions have ''Credit Builder'' or ''Credit Rebuilder'' loans, but only report the ''most common rate'' on the Call report for unsecured loans. Lowering the interest rate ceilng for federal credit unions would discourage these credit unions from making these loans. Credit seekers' options would be reduced and most of the affected members would have no alternative but to turn to other lenders who will charge much higher rates.

Small credit unions would be particularly affected by lower loan rate ceilings since they tend to have a higher level of unsecured loans, typically with lower loan balances. Thus small credit unions making small loans to members with poor or no credit histories are struggling with far higher costs than the typical credit union. Both young people and lower-income households have limited access to credit and, absent a credit union, often pay rates of 24 to 30 percent to other lenders. Rates between 15 and 18 percent are attractive to such members.

Table 3 shows the number of credit unions in each asset group where the most common rate is more than 15 percent for unsecured loans.

[1] Of the 6489 federal credit unions, 5,002 had zero balances in the 15 percent and above unsecured loan rate category or did not report a balance for the December 1999 reporting period.

TABLE 3.—ACTIVE FEDERAL CREDIT UNIONS WITH MOST COMMON UNSECURED LOAN RATES GREATER THAN 15 PERCENT

[December 1999]

Peer group by asset size	Total all FCUs	Number of FCUs*
$0–2 million	1,697	178
$2–10 million	2,212	258
$10–50 million	1,725	202
$50 million+	855	93
Total	6,489	731

*With Loan Rates equal or greater than 15 percent.

Among the 731 credit unions where the most common rate is more than 15 percent for unsecured loans, 121 have 20 percent or more of their assets (Table 4) in this category. For these credit unions, lowering the rates would damage their liquidity, capital, earnings, and growth.

TABLE 4.—ACTIVE FEDERAL CREDIT UNIONS WITH MOST COMMON UNSECURED LOAN RATES GREATER THAN 15 PERCENT AND MORE THAN 20 PERCENT OF ASSETS IN UNSECURED LOANS

[December 1999]

Peer group by asset size	Average percentage of loan rates greater than 15 percent to total assets	Number of FCUs with loan rates equal or greater than 15 percent.
$0–2 million	40	81
$2–10 million	28	32
$10–50 million	36	5
$50 million+	21	3
Total	125	121

In conclusion, the Board has continued the federal credit union loan interest rate ceiling of 18 percent per year for the period September 9, 2000 to March 8, 2002. Loans and line of credit balances existing on May 16, 1987, may continue to bear interest at their contractual rate, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time during the extension period should changes in economic conditions warrant.

Regulatory Procedures

Administrative Procedure Act

The Board has determined that notification and public comment on this rule are impractical and not in the public interest. 5 U.S.C. 553(b)(3)(B). Due to the need for a planning period prior to the September 9, 2000, expiration date of the current rule, and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action on the loan rate ceiling is necessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small credit unions (those under one million dollars in assets). This final rule provides added flexibility to all federal credit unions regarding the permissible interest rate that may be used in connection with lending. The NCUA Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

NCUA has determined that this rule does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interest. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule applies only to federal credit unions and, thus, will not have substantial direct effects on the states, on the relationship between the national government and the states, nor materially affect state interests. The NCUA has determined that the rule does not constitute a policy that has any federalism implication for purposes of the executive order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. 5 U.S.C. 551. NCUA has recommended to the Office of Management and Budget that it determine that this is not a major rule and is awaiting its determination.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Loan interest rates.

By the National Credit Union Administration Board on July 13, 2000.

Becky Baker,

Secretary to the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS (AMENDED)

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.21(c)(7)(ii)(C) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

(C) *Expiration.* After March 8, 2002, or as otherwise ordered by the NCUA Board, the maximum rate on federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraph (c)(7)(ii)(A) and (B) of this section, on loans and line of credit balance existing on or before May 16, 1987.

* * * * *

[FR Doc. 00–18277 Filed 7–19–00; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–216–AD; Amendment 39–11826; AD 2000–13–51]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2000–13–51 that was sent previously to certain U.S. owners and operators of Boeing Model 737–200 and –300 series airplanes by individual notices. This AD requires repetitive special detailed inspections to detect cracking of the main deck cargo door frames, their existing reinforcing angles (where applicable), and the attach holes of the latch fittings between frame station (FS) 361.87 and FS 498.12, and between water line (WL) 202.35 and WL 213.00, in the area where the main deck cargo door latch fittings attach to the frames, and corrective actions, if necessary. This action is prompted by a report indicating that three of the subject airplanes had multiple cracks in the lower portion of the main deck cargo door frames and, in some cases, the reinforcing angles. The actions specified by this AD are intended to detect and correct cracking of the lower portion of the main deck cargo door frames, which could result in sudden depressurization, loss or opening of the main deck cargo door during flight, and loss of control of the airplane.

DATES: Effective July 25, 2000, to all persons except those persons to whom it was made immediately effective by emergency AD 2000–13–51, issued July 3, 2000, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before September 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–216–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–216–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rany Azzi, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30337–2748, telephone (770) 703–6083; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: On July 3, 2000, the FAA issued emergency AD 2000–13–51, which is applicable to all Boeing Model 737–200 and –300 series airplanes equipped with a main deck cargo door installed in accordance with Supplemental Type Certificate (STC) SA2969SO.

That action was prompted by a report indicating that three of the subject airplanes had multiple cracks in the lower portion of the main deck cargo door frames and, in some cases, the reinforcing angles. The exact cause of the cracking is unknown at this time. The area of the cracking is between frame station (FS) 361.87 and FS 498.12 where the latch fittings attach to the main deck cargo door frames. Such cracking in the lower portion of the main deck cargo door frames could cause reduced structural integrity of the main deck cargo door. This condition, if not corrected, could result in sudden depressurization, loss or opening of the main deck cargo door during flight, and loss of control of the airplane.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued emergency AD 2000–13–51 to detect and correct cracking of the lower portion of the main deck cargo door frames, which could result in sudden depressurization, loss or opening of the main deck cargo door during flight, and loss of control of the airplane. The AD requires repetitive special detailed inspections to detect cracking of the main deck cargo door frames, their existing reinforcing angles (where applicable), and the attach holes of the latch fittings between FS 361.87 and FS 498.12, and between WL 202.35 and WL 213.00, in the area where the main deck cargo door latch fittings attach to the frames, and corrective actions, if necessary.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on July 3, 2000 to all known U.S. owners and operators of Boeing Model 737–200 and –300 series airplanes equipped with a main deck cargo door installed in accordance with STC SA2969SO. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Reporting Requirements

This AD also requires that operators report the results of the special detailed inspection to the FAA. Because the cause of the addressed cracking is not currently known, the intent of these required inspection reports is to enable the FAA to determine how widespread such cracking problems may be in the affected fleet.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–216–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket.

A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–13–51 Boeing: Amendment 39–11826. Docket 2000–NM–216–AD.

Applicability: Model 737–200 and –300 series airplanes equipped with a main deck cargo door installed in accordance with Supplemental Type Certificate (STC) SA2969SO; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the lower portion of the main deck cargo door frames, which could result in sudden depressurization, loss or opening of the main deck cargo door during flight, and loss of control of the airplane, accomplish the following:

(a) Prior to further flight after the effective date of this AD, perform a special detailed inspection using a borescope to detect cracking of the main deck cargo door frames, their existing reinforcing angles (where applicable), and the attach holes of the latch fittings between frame station (FS) 361.87 and FS 498.12, and between water line (WL) 202.35 and WL 213.00, in the area where the main deck cargo door latch fittings attach to the frames.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 150 flight cycles.

(2) If any cracking is detected, prior to further flight, accomplish the requirements of

either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace all discrepant parts with new parts having the same part numbers and repeat the special detailed inspection using a borescope thereafter at intervals not to exceed 150 flight cycles.

(ii) Repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA.

Note 2: For the purpose of this AD a special detailed inspection is defined as: ''An intensive examination of a specific item(s), installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

Reporting Requirements

(b) Within 10 days after accomplishing the actions required by paragraph (a) of this AD, submit a report of any findings of cracking to the Manager, FAA, Atlanta ACO, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia, fax (770) 703–6097. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(e) This amendment becomes effective on July 25, 2000, to all persons except those persons to whom it was made immediately effective by emergency AD 2000–13–51, issued on July 3, 2000, which contained the requirements of this amendment.

Issued in Renton, Washington, on July 13, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18280 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ89

Increase in Rates Payable Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 2000 (October 1, 1999, through September 30, 2000) are changed to show a 1.6% increase in these rates.

DATES: *Effective Date:* This final rule is effective July 20, 2000.

Applicability: However, the changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates applicability, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Advisor, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 38 U.S.C. 3015(g) for fiscal year 2000, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty payable to students pursuing a program of education full time must be increased by 1.6%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 1998, through June 30, 1999, exceeds the total of the monthly Consumer Price Index-W for July 1, 1997, through June 30, 1998.

It should be noted that some veterans will receive an increase in monthly payments that will be less than 1.6%. The increase does not apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called ''kickers''). It does not apply to amounts payable for dependents. Veterans who previously had eligibility under the Vietnam Era GI Bill receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased by 1.6%.

38 U.S.C. 3015(a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the Montgomery GI Bill—Active Duty in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time institutional rate, respectively. Students pursuing a program of education at less than one-half but more than one-quarter-time have had their payments limited to 50% or less of the full-time institutional rate. Similarly, students pursuing a program of education at one-quarter-time or less have had their payments limited to 25% or less of the full-time institutional rate. Changes are made consistent with the authority and formula described in this paragraph.

In addition, 38 U.S.C. 3032(c) requires that monthly rates payable to veterans in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 1.6% raise for such training as well.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1999 in accordance with the applicable statutory provisions discussed above.

Changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Executive Order 12866

The Office of Management and Budget has reviewed this final rule under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 13, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart K, is amended as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

2. In § 21.7136, paragraphs (b), (c)(1), (c)(2), and (c)(3) are revised to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

* * * * *

(b) *Rates.* (1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable for training that occurs after September 30, 1999, and before October 1, 2000, to a veteran whose service is described in paragraph (a) of this section is the rate stated in the following table:

Training	Monthly rate
Full time	$536.00
¾ time	402.00
½ time	268.00
Less than ½ but more than ¼	268.00
¼ time	134.00

(Authority: 38 U.S.C. 3015)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate payable to the veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in the following table:

Training period	Monthly rate
First six months of pursuit of training	$402.00
Second six months of pursuit of training	294.80
Remaining pursuit of training	187.50

(Authority: 38 U.S.C. 3015, 3032(c))

(3) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable to the veteran for pursuit of a cooperative course is:

(i) $528.00 for training that occurs after September 30, 1998, and before October 1, 1999; and

(ii) $536.00 for training that occurs on or after September 30, 1999, and before October 1, 2000.

(Authority: 38 U.S.C. 3015)

(c) * * *

(1) Except as elsewhere provided in this section or in § 21.7139, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in the following table.

Training	Monthly rate
Full time	$436.00
¾ time	327.00
½ time	216.00
Less than ½ but more than ¼ time	216.00
¼ time or less	108.00

(Authority: 38 U.S.C. 3015, 3032(c))

(2) The monthly rate of educational assistance payable to a veteran for pursuit of apprenticeship or other on-job training that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in the following table:

Training period	Monthly rate
First six months of pursuit of training	$327.00
Second six months of pursuit of training	239.80
Remaining pursuit of training	152.60

(Authority: 38 U.S.C. 3015, 3032(c))

(3) The monthly rate of basic educational assistance payable to a veteran for pursuit of a cooperative course is:

(i) $429.00 for training that occurs after September 30, 1998, and before October 1, 1999; and

(ii) $436.00 for training that occurs on or after October 1, 1999, and before October 1, 2000.

(Authority: 38 U.S.C. 3015)

3. Section 21.7137 is amended by:

A. In paragraph (c)(2) introductory text, removing ''1998, and before October 1, 1999'' and adding, in its place, ''1999, and before October 1, 2000''.

B. In paragraph (c)(2)(i), removing ''$716.00'' and adding, in its place, ''$724.00''.

C. In paragraph (c)(2)(ii), removing ''$537.50'' and adding, in its place, ''$543.50''.

D. In paragraph (c)(2)(iii), removing ''$358.00'' and adding, in its place, ''$362.00''.

E. In paragraph (c)(2)(iv), removing ''$179.00'' and adding, in its place, ''$181.00''.

F. Revising paragraph (a) to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* (1) Except as elsewhere provided in this section, the monthly rate of basic educational assistance for training that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	$724.00	$760.00	$791.00	16.00
¾ time	543.00	570.00	593.00	12.00
½ time	362.00	380.00	395.00	8.50
Less than ½ but more than ¼ time	362.00			
¼ time or less	181.00			

(Authority: 38 U.S.C. 3015(e), (f), and (g))

(2) For veterans pursuing apprenticeship or other on-job training, the monthly rate of basic educational assistance for training that occurs after September 30, 1999, and before October 1, 2000, is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program	$504.75	$517.13	$528.00	$5.25
2nd six months of pursuit of program	351.18	360.53	368.23	3.85
3rd six months of pursuit of program	211.40	217.53	222.25	2.45
Remaining pursuit of program	199.50	205.28	210.53	2.45

(Authority: 38 U.S.C. 3015(e), (f), (g))

(3) The monthly rate payable to a veteran who is pursuing a cooperative course is the rate stated in the following table:

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Oct. 1, 1998–Sept. 30, 1999	$716.00	$752.00	$783.00	$16.00
On or after Oct, 1, 1999, and before Oct. 1, 2000	724.00	760.00	791.00	16.00

(Authority: 38 U.S.C. 3015)

* * * * *

[FR Doc. 00–18326 Filed 7–19–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC 045–2020a; FRL–6838–5]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Approval of National Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia, which formalizes the District's commitment to accept sales of motor vehicles that comply with the requirements of the National Low Emission Vehicle (National LEV) program.

The District of Columbia submitted its National LEV SIP revision to EPA on February 16, 2000. Through its adopted regulations submitted as part of its National LEV SIP revision, the District has agreed to the sale of National LEV compliant vehicles within its borders, in lieu of implementation of a California LEV program. Under the National LEV Program, auto manufacturers have agreed to sell cleaner vehicles meeting National LEV standards throughout the District and other participating states for the duration of the manufacturers' commitments to the National LEV Program. A SIP revision from each participating state is required as part of the agreement between the states and automobile manufacturers to ensure continuation of the National LEV Program to supply clean cars throughout most of the country. The sale of vehicles complying with the National LEV program standards began with 1999 model year vehicles in Northeast states. The National LEV program will then be expanded to include states outside the Northeast beginning with 2001 model year vehicles.

DATES: This rule is effective on September 18, 2000 without further notice, unless EPA receives adverse comment by August 21, 2000. If we receive such comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of District of Columbia-specific materials may be reviewed at the District's offices at: District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, (215) 814–2176, or by e-mail at rehn.brian@epa.gov

SUPPLEMENTARY INFORMATION:

I. Background

The National Low Emission Vehicle (National LEV) program is a voluntary, nationwide clean car program, designed to reduce ground level ozone (or smog) and other air pollution produced by emissions from newly manufactured motor vehicles. On June 6, 1997 (62 FR 31192) and on January 7, 1998 (63 FR 926), the Environmental Protection Agency (EPA) promulgated rules outlining the framework for the National LEV program. These National LEV regulations allow auto manufacturers to commit to meet tailpipe standards for cars and light-duty trucks that are more stringent than EPA could otherwise mandate under the authority of the Clean Air Act in that time frame. The regulations provided that the program would come into effect only if Northeast states and auto manufacturers agreed to participate. On March 9, 1998 (63 FR 11374), EPA published a finding that the program was in effect. Nine northeastern states (Connecticut, Delaware, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Virginia, and the District of Columbia) and 23 auto manufacturers (BMW, Chrysler, Fiat, Ford, General Motors, Honda, Hyundai, Isuzu, Jaguar, Kia, Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Porsche, Rolls-Royce, Saab, Subaru, Suzuki, Toyota, Volkswagen, and Volvo) opted to participate in the National LEV program. Once in effect, the National LEV Program became enforceable in the same manner as any other Federal new motor vehicle emission control program.

The National LEV Program will achieve significant air pollution reductions nationwide. In addition, the program provides substantial harmonization of Federal and California standards for new motor vehicles and new motor vehicle test procedures. This program enables manufacturers to move towards the design and testing of vehicles to satisfy one set of nationwide standards. The National LEV Program demonstrates how cooperative partnership efforts can produce a smarter, cheaper emissions control program that reduces regulatory burden while increasing protection of the environment and public health.

The National LEV Program will result in substantial reductions in non-methane organic gases (NMOG) and nitrous oxides (NO_X), which contribute to unhealthy levels of smog in many areas across the country. National LEV vehicles are 70% cleaner than today's model requirements under the Clean Air Act. This voluntary program provides auto manufacturers flexibility in meeting the associated standards as well as the opportunity to harmonize their production lines and make vehicles more efficiently. National LEV vehicles were estimated to cost an additional $76 above the price of vehicles otherwise required today, but the actual per vehicle cost is now expected to be even lower, due to factors such as economies of scale and historical trends related to emission control costs. This predicted incremental cost is less than 0.5% of the price of an average new car. In addition, the National LEV Program will help ozone nonattainment areas across the country improve their air quality, as well as reduce pressure to make further, more costly emission reductions from stationary industrial sources.

Because it is a voluntary program, National LEV was set up to take effect, and will remain in effect, only if the participating auto manufacturers and Northeastern States commit to the program and abide by their commitments. The states and manufacturers initially committed to the program through opt-in notifications to EPA, which were sufficient for EPA to find that National LEV had come into effect. The National LEV regulations provide that the second stage of the state commitments are to be made through SIP revisions that incorporate those state commitments to National LEV into state regulations. EPA will then take rulemaking action to approve each state's regulation into its respective federally-enforceable SIP. The National LEV regulations laid out the elements to be incorporated in the SIP revisions, the timing for such revisions, and the language (or substantively similar language) that needs to be included in a SIP revision to allow EPA to approve that revision as adequately committing the state to the National LEV Program. In today's action, EPA is approving the National LEV SIP revision for the District of Columbia as adequately committing the District to the program. With this rulemaking action, EPA will have completed rulemaking action to approve commitments to the National LEV program by all the Northeast states that have elected to join the National LEV Program.

II. EPA's Evaluation of the District's Submittal

At present, the District of Columbia has not exercised the option, pursuant to section 177 of the Clean Air Act, to adopt state standards to regulate new motor vehicles identical to California's LEV program. Rather, the District adopted regulations that provide for the National LEV Program to be in place. These provide that for the duration of the District's participation in the National LEV program, manufacturers may comply with National LEV standards or equally stringent mandatory Federal standards in lieu of compliance with any state-adopted California LEV program pursuant to section 177 of the Clean Air Act. The District has adopted regulations that accept National LEV as a compliance alternative for requirements applicable to passenger cars, light-duty trucks, and medium-duty trucks designed to operate on gasoline. The District's regulation provides for participation in the National LEV program until model year 2006. Through its regulations, which were submitted to EPA as a SIP revision, the District of Columbia has adequately committed to the National LEV Program, as provided in the final National LEV rule.

EPA's final National LEV rule stated that if a state submits a SIP revision containing regulatory language substantively identical to the language in EPA's regulation without additional conditions, and if such a submission otherwise meets the Clean Air Act requirements for approvable SIP submissions, EPA would not need to conduct notice-and-comment rulemaking to approve that SIP revisions. In its National LEV rulemaking, EPA provided full opportunity for public comment on the language to be contained in each state's subsequent SIP revision. Thus, as discussed in more detail in the EPA National LEV final rule, the requirements for EPA SIP approval are easily verified objective criteria (see 63 FR 936, January 7, 1998). While we could appropriately approve the submission from the District of Columbia without providing for additional notice and requesting comments, we have nonetheless

decided to take this action in the form of a direct final rulemaking, which allows an opportunity for further public comment. In this instance, EPA is not under a timing constraint that would support a shorter rulemaking process, and thus we have decided there is no need to deviate from the Agency's usual procedures for SIP approvals.

III. Final Action

EPA has evaluated the SIP revision submitted by the District of Columbia. The Agency has determined that this SIP revision is consistent with the EPA National LEV regulations and satisfies the general SIP approval requirements of section 110 of the Clean Air Act. Therefore, EPA is approving the District of Columbia low emission vehicle rule submitted on February 16, 2000 into the District's SIP.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective September 18, 2000 without further notice, unless the Agency receives adverse comment by August 21, 2000.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments received in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Nothing in this action should be construed as permitting or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the District of Columbia's National LEV Program SIP revision must be filed in the United States Court of Appeals for the appropriate circuit by September 18, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 30, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart J—District of Columbia

2. In § 52.470, the entry for Chapter 9, section 915 entitled ''National Low

Emission Vehicle Program'' in the ''EPA Approved Regulations in the District of Columbia SIP'' table in paragraph (c) is added to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA—APPROVED DISTRICT OF COLUMBIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
* * *	*	*	*	*
Chapter 9	Motor Vehicle Pollutants, Lead, Odors, and Nuisance Pollutants			
* * *	*	*	*	*
Section 915	National Low Emission Vehicle Program.	February 11, 2000	[July 20, 2000 and FEDERAL REGISTER cite].	
* * *	*	*	*	*

[FR Doc. 00–18108 Filed 7–19–00; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1331; MM Docket No. 99–271; RM–9696; RM–9800]

Radio Broadcasting Services; Boulder City, NV; Bullhead City, Lake Havasu City, Kingman, Dolan Springs, and Mohave Valley, AZ; Ludlow, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Centennial Broadcasting Licensee, LLC, and Mag Mile Media, L.L.C.: (1) Substitutes Channel 274C for Channel 288C2 at Boulder City, NV, and modifies the license of Station KSTJ to specify the higher class channel; (2) substitutes Channel 289C for Channel 274C and reallots the channel from Bullhead City to Dolan Springs, AZ, as the community's first local aural service, and modifies the license of Station KFLG–FM to specify the alternate Class C channel and Dolan Springs as its community of license; (3) substitutes Channel 272C2 for Channel 224C2 at Lake Havasu City, AZ, and modifies the license of Station KJJJ to specify the alternate Class C2 channel; (4) substitutes Channel 224C1 for Channel 290C1 at Kingman, AZ, and modifies the license of Station KRCY to specify the alternate Class C1 channel; (5) substitutes Channel 273A for Channel 289A at Ludlow, CA, and modifies the license of Station KDUQ to specify the alternate Class A channel; and (6) Channel 240A to Mohave Valley, AZ, as the community's first local aural service. See 64 FR 47483, August 31, 1999, and counterproposals thereto. A filing window for Channel 240A at Mohave Valley will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective July 31, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–271, adopted June 7, 2000, and released June 16, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Channel 274C can be allotted to Boulder City in compliance with the Commission's minimum distance separation requirements at Station KSTJ's presently licensed transmitter site, 35–59–45 North Latitude; 114–51–51 West Longitude. Channel 289C can be allotted to Dolan Springs with a site restriction of 27 kilometers (17 miles) north, at coordinates 35–50–00 NL; 114–19–00 WL, to accommodate Mag Mile's desired transmitter site. Channel 272C2 can be allotted to Lake Havasu City at Station KJJJ's licensed transmitter site, at coordinates 34–33–06 NL; 114–11–37 WL. Channel 224C1 can be allotted to Kingman at Station KRCY's licensed transmitter site, at coordinates 35–01–58 NL; 114–21–57 WL. Channel 240A can be allotted to Mohave Valley without the imposition of a site restriction, at coordinates 34–55–40 NL; 114–35–51 WL. Channel 273A can be allotted to Ludlow at Station KDUQ's licensed transmitter site, at coordinates 34–43–21 NL; 116–10–04 WL. Mexican concurrence in the allotments at Kingman, Lake Havasu City and Ludlow have been obtained since they are located within 320 kilometers (199 miles) of the U.S.-Mexican border. Concurrence in the allotment at Mohave Valley has been requested but not yet received. Therefore, if a construction permit is granted prior to receipt of formal concurrence in the allotment by the Mexican Government, the construction permit will include the following condition: ''Operation with the facilities specified herein is subject to modification, suspension or termination without right to a hearing, if found by the Commission to be necessary in order to conform to the USA-Mexico FM Broadcasting Agreement.''

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Bullhead City, Channel 274C; adding Dolan Springs, Channel 289C; removing Channel 290C1 and adding Channel 224C1 at Kingman; removing Channel 224C2 and adding Channel 272C2 at Lake Havasu City; adding Mohave Valley, Channel 240A.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 289A and adding Channel 273A at Ludlow.

4. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by removing Channel 288C2 and adding Channel 274C at Boulder City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18291 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1392; MM Docket No. 99–351; RM–9785]

Radio Broadcasting Services; Holbrook, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 253C1 for Channel 221C1 at Holbrook, Arizona, and modifies the license for Station KZUA–FM accordingly, as requested on behalf of Navajo Broadcasting Company, Inc., *See* 64 FR 73461, December 30, 1999. Coordinates used for Channel 253C1 at Holbrook, Arizona, are 34–41–25 NL and 110–06–00 WL.

DATES: Effective August 7, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–351, adopted June 14, 2000, and released June 23, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 221C1 at Holbrook, and adding Channel 253C1 at Holbrook.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18292 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1324; MM Docket No. 99–349; RM–9766]

Radio Broadcasting Services; Hemet, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 273A to Hemet, California, as that community's second local FM transmission service, in response to a petition for rule making filed on behalf of Arana Productions. *See* 64 FR 73463, December 30, 1999. Coordinates used for Channel 273A at Hemet, California, are 33–44–41 NL and 116–59–13 WL. As Hemet is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government was requested but has not been received. As the allotment complies with the terms of the 1992 USA-Mexico FM Broadcast Agreement (''Agreement''), Channel 273A has been allotted to Hemet with an interim operating condition which may be removed once an official response from the Mexican government has been obtained.

DATES: Effective July 31, 2000. A filing window for Channel 273A at Hemet, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process for Channel 273A at Hemet, California, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–349, adopted June 7, 2000, and released June 16, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 273A at Hemet.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18293 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1439; MM Docket No. 99–285; RM–9717, RM–9808]

Radio Broadcasting Services; Keeseville and Dannemora, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dannemora Broadcasting and John Anthony Bulmer, allots Channel 250A to Dannemora, NY, as the community's first local aural service. *See* 64 FR 55223, October 12, 1999, and counterproposals thereto. This action also dismisses the request of John Anthony Bulmer to allot Channel 250A to Keeseville, NY. Channel 250A can be allotted to Dannemora in compliance with the Commission's minimum distance separation requirements, with respect to all domestic allotments, without the imposition of a site restriction, at coordinates 44–43–12 NL; 73–43–36 WL. Concurrence by the

Canadian Government in the allotment, as a specially negotiated, short-spaced allotment, has been obtained. A filing window for Channel 250A at Dannemora will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective August 14, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–285, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Dannemora, Channel 250A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18294 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–1447, MM Docket No. 00–23; RM–9819]

Radio Broadcasting Services; Hayward, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 232C2 to Hayward, Wisconsin, in response to a petition filed by Escanaba License Corp. *See* 65 FR 10044, February 25, 2000. The coordinates for Channel 232C2 at Hayward, Wisconsin, are 46–15–04 NL and 91–23–01 WL. A filing window for Channel 232C2 at Hayward, Wisconsin, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective August 14, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 00–23, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Channel 232C2 at Hayward.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18331 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1312; MM Docket No. 95–88; RM–8641, RM–8688, RM–8689]

Radio Broadcasting Services; Rose Hill, Trenton, and Aurora, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration and supplement to petition for reconsideration filed by Conner Media Corporation of the *Report and Order,* 61 FR 66618 (December 18, 1996) which allotted Channel 283A to Aurora, North Carolina, and denied a mutually exclusive proposal by Station WBSY(FM), Channel 284A, Rose Hill, NC to substitute Channel 284C2 for Channel 284A, to reallot the upgraded Channel to Trenton, NC, and to modify the license for Station WBSY (FM) accordingly. The document affirms the Report and Order's decision not to use an alternate channel to remove the conflict between the competing proposals because of a short spacing to a vacant allotment.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 95–88, adopted June 9, 2000 and released June 16, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), at its headquarters, 445 12th Street, S.W. Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th, N.W. Washington, D.C. 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18345 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 140
Thursday, July 20, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

[Docket No. EE–RM–98–507]

RIN 1904–AA98

Alternative Fuel Transportation Program: Requirements for Local Government and Private Fleets; Intergovernmental Consultation

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public workshops and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) announces that it will hold three informal public workshops to discuss regulatory options and other issues related to potential alternative fuel transportation requirements for local government and private fleets under the Energy Policy Act of 1992. To meet new government consultation requirements, two of these public workshops will be open only to State and local government officials or their representatives.

DOE also announces that it is pausing its rulemaking efforts regarding whether and what to propose as a regulatory requirement on local government and private fleets with respect to alternative fueled vehicles until after consultations with State and local government officials have occurred. DOE is preserving the option of promulgating a local government and private fleet rulemaking after the State and local government consultation process has concluded.

DATES: Oral views, data, and recommendations may be presented at the public workshops, which are scheduled as follows:

1. In Chicago, IL, beginning at 9 a.m. on August 1, 2000.

2. In Denver, CO, beginning at 9 a.m. on August 22, 2000.

3. In Washington, DC, beginning at 9:30 a.m. on September 26, 2000.

The public workshops held in Chicago and Denver are open only to those directly employed by State and local governments. The Washington, DC public workshop is open to all. Due to security check-in procedures for visitors, workshop attendees are advised to arrive at the workshop facilities at least one-half hour before the published starting time for each workshop.

ADDRESSES: The public workshops will be held at the following addresses:

1. Chicago, IL—Argonne National Laboratory, Advanced Photon Source Conference Center, Building 402, 9700 S. Cass Avenue, Argonne, IL 60439.

Directions to Argonne National Laboratory, including maps, can be found at: *www.anl.gov/OPA/anlil.html.* The Advanced Photon Source is designated as APS Facility on the Illinois Site Map (*www.anl.gov/OPA/ilsitemap.html*) and is found in the lower left corner of the map outlined in light blue.

2. Denver, CO—National Renewable Energy Laboratory, Building 17, Fourth Floor Conference Room, 1617 Cole Boulevard, Golden, CO 80401–3393.

Directions to the National Renewable Energy Laboratory, including maps, can be found at: *www.nrel.gov/visiting□ nrel/centraloffice.html.*

3. Washington, DC—U.S. Department of Energy, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585.

To assist DOE in planning for these workshops, we ask that interested parties call the regulatory information line, at (202) 586–9171, or e-mail Kenneth Katz, Program Manager, Office of Transportation Technologies, at: Kenneth.Katz@hq.doe.gov, to reserve a space at one or more of the workshops. When reserving a space please identify yourself, spell your name (if placing a reservation over the phone), whom you are employed by (or whom you represent), and provide your address, phone number and e-mail address (if applicable). Workshop attendees may also send a facsimile, with all the necessary information, to Kenneth Katz at (202) 586–1610. DOE will confirm your reservation by phone or e-mail.

Written comments are welcome, including from those who desire to submit their comments following attendance at a workshop. All written comments (eight copies) must be received by DOE by October 16, 2000. Commenters should identify the specific program option and/or issue they are addressing. Written comments should be addressed to: U.S. Department of Energy, Office of Transportation Technologies, EE–34, Docket No. EE–RM–98–507, 1000 Independence Avenue, SW, Washington, DC 20585.

Copies of the public workshop summaries, public comments received, and any other docket material received may be read and copied at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585; telephone (202) 586–3142, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The docket file material will be filed under ''EE–RM–98–507.''

FOR FURTHER INFORMATION CONTACT: Kenneth R. Katz, Office of Energy Efficiency and Renewable Energy, EE–34, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, Kenneth.Katz@hq.doe.gov; or phone (202) 586–9171.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Energy Policy Act of 1992 (EPACT) (Pub. L. 104–486) requires Federal government fleets, State government fleets, and alternative fuel providers to acquire alternative fuel vehicles (AFVs) for their light-duty fleets. Section 507(g) of EPACT authorizes DOE to pursue a rulemaking to extend alternative fueled vehicle acquisition requirements to certain local government and private fleets. Fleets would be covered if they are located in one of 125 areas specified by EPACT (see the complete list of the Program's Metropolitan Statistical Areas and its component cities and counties at *www.afdc.doe.gov/pdfs/msacnty.pdf*), and if they meet certain size and operational requirements. If implemented, a requirement for local government and private fleets could start as early as model year 2002 (which runs from September 1, 2001 to August 31, 2002).

In order to implement any section 507(g) requirement, section 507(c) of EPACT requires DOE to publish an Advance Notice of Proposed

Rulemaking (ANOPR) to begin a rulemaking process to evaluate and examine EPACT's replacement fuel goals, and to determine whether alternative fueled vehicle (AFV) acquisition requirements for local government and private fleets are necessary to achieve EPACT's energy security and other goals. 42 U.S.C. 13256(c). DOE published an ANOPR for the purposes described in section 507(c) on April 17, 1998. 63 FR 19372. This notice was intended to stimulate comments to assist DOE in making decisions concerning future rulemaking actions and non-regulatory initiatives to promote alternative fuels and alternative fueled vehicles. Three hearings were held to receive oral comments on the ANOPR. They were held on May 20, 1998 in Los Angeles, California; on May 28, 1998 in Minneapolis, Minnesota; and on June 4, 1998, in Washington, DC. A total of 110 persons spoke at the three hearings and/or submitted written comments, which were received by July 16, 1998.

II. Decision To Defer Proposed Rulemaking Until After Consultations Have Occurred

Before any alternative fueled vehicle regulation can be implemented, DOE must propose regulatory requirements, along with accompanying discussion and analysis, in a Notice of Proposed Rulemaking (NOPR). Since late 1998, DOE has been reviewing comments, conducting analytical work, and exploring various approaches to implementing section 507(g) of EPACT.

DOE has undertaken analytical initiatives, and participated in public forums, to gain an understanding of the potential effects a rule would have on fleets, EPACT's replacement fuel goals, the energy security of the Nation, and the environment. The feedback, analyses and data that have been received have resulted in multiple options for promulgating an alternative fueled vehicle requirement for local government and private fleets. Before proceeding with the rulemaking, however, additional work is needed.

Under Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999), and DOE's recent statement of policy regarding intergovernmental consultation (65 FR 13735, March 14, 2000), DOE must consult with State and local governments before issuing any proposed rule that may have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The consultation requirements specified in Executive Order 13132 became effective in November 1999.

Previously, this office had engaged in stakeholder meetings in late 1998 (which are described below) to discuss the possible regulatory options for a local government and private fleet rulemaking. State and local government officials were active participants in these stakeholder meetings. As a result of these new consultation requirements, and because a final rule under section 507(g) of EPACT may have substantial effects on local governments, DOE has decided to hold public workshops to discuss its possible regulatory options for a local government and private fleet rulemaking.

Because DOE must engage in consultation with State and local governments, DOE is pausing its rulemaking efforts regarding whether, and what, to propose as an alternative fueled vehicle or fuel use requirement on local government and private fleets until after consultations with State and local government officials. DOE preserves the option of promulgating a local government and private fleet rulemaking after the State and local government consultation process has concluded.

III. State and Local Government Consultation Requirement

The President issued Executive Order 13132, ''Federalism,'' on August 4, 1999 (64 FR 43255, Aug.10, 1999). Section 6(a) of the Order requires each covered Federal agency to have ''an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' The term ''State and local officials'' is defined in section 1(d) of the Order to mean ''elected officials of State and local governments or their representative national organizations.'' ''Regulatory policies that have federalism implications'' refers to actions that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' E.O. 13132, Section 1(a).

On October 28, 1999, the Administrator, Office of Information and Regulatory Affairs, within the Office of Management and Budget (OMB), issued, to heads of executive departments and agencies, guidance for implementing Executive Order 13132. Pursuant to section 6 of the Order, the Administrator requested that each agency federalism official submit a description of the agency's consultation process to OMB by January 31, 2000. In response, DOE published a statement of policy on intergovernmental consultation in the development of regulations that have federalism implications (''Statement of Policy''). 65 FR 13735. Because the intergovernmental consultation procedures required by Executive Order 13132 and by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) are similar, DOE modeled its policy on its final policy statement on intergovernmental consultation under the Unfunded Mandates Reform Act of 1995, which DOE published on March 18, 1997 (62 FR 12820). The Statement of Policy provides for DOE to use the same basic consultation process for development of a regulation that contains a significant Federal intergovernmental mandate and may have federalism implications.

Because a rulemaking requiring local governments to acquire alternative fueled vehicles may have federalism implications, the Secretarial Officer responsible for the rulemaking is tasked, under DOE's Statement of Policy, with providing adequate notice to pertinent State and local officials and engaging in consultation with them concerning regulatory options that DOE is considering. For this specific rulemaking, the responsible Secretarial Officer is the Assistant Secretary for Energy Efficiency and Renewable Energy.

To ensure maximum participation by government officials, DOE's Statement of Policy requires a notice to State and local officials to: (1) Describe the nature and authority for the rulemaking(s); (2) give DOE's estimate of the effects on State and local governments of the regulatory options being considered for proposal; and (3) invite them to participate in the development of the regulation by participating in the public workshops or by presenting their views in writing on the likely effects of regulatory options being considered by DOE staff or legally available policy alternatives that they wish DOE to consider. With respect to State governments, DOE's policy requires that actual notice by letter, using a mailing list maintained by the DOE Office of Intergovernmental and External Affairs, is provided to the National Governors Association, the National Conference of State Legislatures, and the Council of State Governments. With respect to local governments, DOE's policy requires giving notice through the **Federal Register** and by letter to the Executive Director of the National League of Cities, the National

Association of Counties, the U.S. Conference of Mayors, the International City/County Management Association, and any State Municipal League not represented by a national association. Additionally, DOE is giving actual notice by letter to the coordinators of all Clean Cities coalitions.

In consultation with State and local officials, DOE is responsible for seeking comment on: (1) The need for Federal regulation; (2) compliance costs of regulatory options DOE is considering for proposal; (3) legally available policy alternatives; and (4) ways to avoid or minimize conflict between State law and federally protected interests. The Statement of Policy requires that the timing, nature, and detail of the consultation with State and local officials be appropriate to the nature of the regulation involved.

IV. Previous Stakeholder Meetings

In the fall of 1998, DOE held a series of informal meetings with several stakeholder groups. The specific groups included: private fleets, transit bus operators, medium/heavy duty fleets, local government fleets, State government fleets, electric utilities, liquid fuel providers, natural gas fuel providers, and propane fuel providers. Other participants included regulatory agencies, technology research organizations, vehicle fuel systems providers, consulting firms, vehicle manufacturers, and related associations and coalitions.

These meetings were held because DOE desired an opportunity to present several regulatory options under consideration at the time, and to gauge stakeholder reactions. At these meetings, DOE discussed the issues affecting the development of a requirement under section 507(g), including DOE's processes, requirements, and authority. In addition to responding to the options presented, stakeholders were presented with an opportunity to identify key barriers to increased use of alternative fuels, and to suggest possible solutions. No efforts were made during the meetings to achieve a consensus.

In addition, DOE held several informal meetings or discussions with automobile manufacturers with the same purposes and information as the stakeholder meetings discussed above. These included meetings with the following companies: American Honda Motor Company, DaimlerChrysler Corporation, Ford Motor Company, General Motors, and Toyota Motor Corporation.

DOE began each meeting by discussing the EPACT replacement fuel goals, the authority to modify these goals, the possible regulatory options for a fleet requirement rule, and the additional statutory authority related to urban transit buses. At each meeting, DOE presented the following four regulatory options under consideration at the time:

(1) A rule based solely upon the AFV acquisition requirements specified by section 507(g) of the Energy Policy Act;

(2) All the elements of Option #1, but with a requirement that the alternative fueled vehicles must operate on alternative fuels wherever available;

(3) All the elements of Option #1, but with a provision for the allocation of credits for actual use of replacement fuels; and

(4) A replacement fuels program, focused on requiring fleets to reduce their light-duty fleet petroleum consumption through the use of replacement fuels.

V. Consultation Through Public Workshops

As set forth in the **DATES** section of this notice, DOE is holding three informal public workshops to discuss regulatory options, issues, and stakeholder concerns. DOE will also utilize these workshops to gather information from local government and private fleets about the type and size of fleets they operate, and how flexibility in meeting a possible requirement would affect the operation of their fleets. The workshops will be an opportunity for DOE to listen to concerns of State, local and private stakeholders.

In short, DOE wishes to consult with stakeholders on whether to promulgate a rule requiring local government and private fleets to acquire AFVs, or use replacement fuel, and, if so, what type of rule and which optional rule formulations should be proposed. In particular, DOE would prefer that any proposed rule results in the largest practical number of AFVs acquired; the greatest displacement of oil; and minimal cost to covered fleets. Specifically, DOE requests comment and feedback on several options:

1. No Regulatory Requirement for Local Government and Private Fleets Is Proposed

DOE could elect not to propose any requirements, with respect to alternative fueled vehicles, for local government and private fleets. If DOE were eventually to determine not to propose a local government and private fleet requirement program, section 509 of EPACT requires DOE to submit to Congress recommendations for possible requirements, or incentives, for fuel suppliers, vehicle suppliers, and motorists that would achieve EPACT's replacement fuel goals.

2. The Local Government and Private Fleet AFV Acquisition Program as Provided by Section 507(g) of EPACT

If DOE elects to propose an AFV acquisition requirement, this option would adopt the language provided by section 507(g) of EPACT, and require local government and private fleets to acquire AFVs as a percentage of their light-duty vehicle acquisitions during specific model years. For model year 2002, the requirement would be that 20 percent of the light-duty vehicles acquired by a local government or private fleet would have to be AFVs. The acquisition requirement would then rise to 40 percent in model year 2003; 60 percent in model year 2004; and 70 percent in model year 2005 and thereafter. DOE could propose a regulation that lowered these percentages or extended the time frame. This program would work similar to the existing State and alternative fuel provider program and would not impose an alternative fuel use requirement for the AFVs acquired by local government and private fleets. Like the existing program, fleets could earn AFV credits for the early or excess acquisition of AFVs.

DOE is requesting comment on this approach, specifically on ways to implement the program with minimal cost and reporting burden on covered fleets.

3. The Fleet Rewards Program

If DOE elects to propose AFV acquisition requirements for local government and private fleets, it could propose flexible compliance strategies to increase the use of alternative fuel. For example, DOE could allow fleets that are required to obtain alternative fueled vehicles under section 507(g) to voluntarily opt into a Fleet Rewards Program.

As currently conceptualized, the Fleet Rewards Program would use the number of light-duty vehicles acquired by a fleet in a model year as the basis for determining a fleet's requirements. A fleet's requirement would still be based on acquiring a specific percentage of its light-duty vehicles as AFVs. However, the Fleet Rewards Program would differ by allowing fleets to take specific actions, called AFV-Equivalency actions, to achieve compliance with its AFV acquisition requirements and to encourage the use of alternative fuel. Those actions that would be allowable under the Fleet Rewards Program, and

would receive AFV-Equivalency Credits, would be the acquisition of any size and class of alternative fueled vehicle, and the consumption of each 500 gasoline gallon equivalent of alternative fuel.

Each AFV acquired, regardless of size and/or class, would earn an AFV-Equivalency Credit for a fleet. Each discrete use of 500 gasoline gallon equivalents of alternative fuel would earn an AFV-Equivalency Credit for a fleet. Two AFV-Equivalency credits would be allocated for the acquisition of dedicated alternative fueled vehicles. The operation of an existing dedicated alternative fueled vehicle in a fleet would also be eligible for AFV-Equivalency Credit.

DOE is requesting comments on this approach, specifically as to whether the Fleet Rewards Program would provide greater flexibility for fleets and encourage alternative fuel use.

4. The Replacement Fuel Program

If DOE elects to propose requirements on local government and private fleets, it could orient the program away from AFVs and toward replacement fuel utilization. As currently conceived, the Replacement Fuel Program would require local government and private fleets to reduce their light-duty vehicle petroleum usage by increasing the percentage of replacement fuels used in their light-duty vehicles. The current definition of fleet used under the EPACT AFV acquisition programs—Metropolitan Statistical Area (MSA) of more than 250,000 people, 50 vehicles total, 20 vehicles in a single MSA—would apply for determining which local government and private fleets may be covered by the program.

A fleet would calculate the total gasoline gallon equivalents (GGE) used by its light-duty vehicles and then multiply that amount by the applicable percentage required for that model year. Fleets would be allowed to count fuel use from any size-class and type of vehicle they operate, regardless of whether these vehicles are newly acquired or existing vehicles.

The Replacement Fuel Program would provide replacement fuel credits for both early replacement fuel use, as well as replacement fuel use in excess of requirements. These credits would be valued on a gasoline gallon equivalent basis, so they would be easily tradeable.

DOE is requesting comments on this approach, specifically as to whether the Replacement Fuel Program would provide greater flexibility for fleets and encourage replacement and alternative fuel use.

5. Extending Flexibile Options to Other Fleets

DOE is considering whether it is possible to allow State government fleets to participate in the Fleet Rewards and/or the Replacement Fuel Program discussed above. State government fleets are not required by EPACT to use alternative fuels in their AFVs. In spite of this, many State fleets are using alternative fuels, and others have expressed an interest in using alternative fuels. DOE is requesting comments on whether it should propose to allow State fleets to participate in these options, with or without a requirement for local government and private fleets.

DOE is also considering whether it is possible to allow non-covered fleets and private citizens to generate AFV-Equivalency Action credits, or replacement fuel use credits, for the acquisition of AFVs and the use of alternative fuel and replacement fuels. If allowable under law, non-covered fleets and private citizens could be allocated credits, which could be sold to any EPACT mandated fleet that is required to achieve compliance with the Fleet Rewards or Replacement Fuel Program.

These fleets and individuals would be under no reporting requirement, but would have to report their actions to DOE to obtain credits. DOE is requesting comments on this approach, specifically as to whether the benefits of allowing the involvement of non-covered fleets and individuals would outweigh the complexities of enabling these groups to obtain credits.

DOE is also considering ways to reward alternative fuel providers for establishing fueling infrastructure and for supporting the use of AFVs in their local communities. DOE is seeking comments and suggestions as to how this could be accomplished within a regulatory framework.

6. An Alternative Fueled Urban Transit Bus Acquisition Program as Provided by Section 507(k) of EPACT

Section 507(k) of the Energy Policy Act provides DOE with the authority to propose a program requiring the acquisition of alternative fueled urban transit buses if this program would ''contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504.'' DOE must determine if such an action would be consistent with energy security goals and the objective of encouraging greater use of urban buses by the public, and how such a program could be implemented in concert with or instead of a local government and private fleet program.

A possible option for a potential urban transit bus program would be one under which transit operators would be required to acquire alternative fuel buses as a portion of their new urban transit bus acquisitions, such as under a 507(g) fleet program.

Another possible option would be allowing urban transit bus operators the opportunity to ''opt into'' the Fleet Rewards Program as an optional compliance path. Under this program, urban transit bus operators might receive credit either for acquisitions of alternative fuel vehicles or for alternative fuel use. As with the light-duty vehicle program, an AFV-Equivalency would have to be established, which would have to be a fair and appropriate AFV-Equivalency for an urban transit bus.

A third possible option is a Replacement Fuel Program for urban transit bus fleets. DOE is requesting comments on whether urban transit bus operators should have a separate Fleet Rewards or Replacement Fuel Program, or whether it should be a subset of a possible Fleet Rewards or Replacement Fuels Program for local government and private fleets.

DOE also is considering what might be the appropriate minimum fleet size required for an urban transit bus operator to be covered by a section 507(k) requirement. Because EPACT does not explicitly provide guidance on this issue, DOE will be seeking comments as to what the appropriate minimum fleet size could be. DOE is seeking comments on these various approaches to encouraging alternative and replacement fuel use in transit buses.

VI. Conduct of the Workshops

The workshops will be conducted in an informal, conference style. As opposed to hearings, at which speakers make formal oral statements before a panel of DOE officials who can question them, the workshops will have no formal presentations by workshop participants. DOE officials will present the issues to be discussed and then will act as facilitators for the ensuing discussions. Workshop participants will be allowed to speak, offer information and raise issues/questions at any point during a workshop.

The draft agenda described below is subject to modification to ensure that those who attend will have an adequate opportunity to state their views, offer information, raise issues, and interact with other attendees. There will be no discussion of proprietary information,

costs or prices, market shares, or other commercial matters regulated by antitrust law. A summary of what is discussed at each workshop will be prepared and made available to participants and the general public, along with a more detailed description of the options on the Office of Transportation Technologies' Website; *www.ott.doe.gov/epact/private_fleets.html.*

VII. Preliminary Agenda

Purpose of Meeting
Introduction of Attendees
DOE Presentation of Workshop Issues
  DOE's Authority
  DOE's Process/Requirements
  Consultation Requirements
  Previous Stakeholder Meetings
  Regulatory Options
  DOE's Questions
Breakout Sessions
  Questions Concerning DOE's Regulatory Options/Deferral Decision
  Response to DOE's Regulatory Options/Deferral Decision
  Other Possible Regulatory Concepts
  Incentives
  Non-Financial incentives
  Other Issues

Issued in Washington, DC on July 17, 2000.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 00–18369 Filed 7–19–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–322–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, A300 B4–600R, and A300 F4–600R Series Airplanes (A300–600)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (A300–600), that currently requires an inspection to detect cracks of certain attachment holes; and installation of new fasteners and follow-on inspections or repair, if necessary. This action would require a reduction in the inspection threshold and repetitive intervals and an increase in the number of attachment holes to be inspected. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

DATES: Comments must be received by August 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–322–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–322–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–322–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–322–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 25, 1997, the FAA issued AD 97–16–06, amendment 39–10097 (62 FR 41257, August 1, 1997) [A correction was published in the **Federal Register** on August 25, 1997 (62 FR 44888)], applicable to all Airbus Model A300 B4–600 (A300–600), A300 B4–600R, and A300 F4–600R series airplanes (A300–600), to require an inspection to detect cracks of certain attachment holes; and installation of new fasteners and follow-on inspections or repair, if necessary. That action was prompted by reports of cracking on the forward fitting of fuselage frame FR47 at the level of the last fastener of the external angle fitting. The requirements of that AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the airframe.

Actions Since Issuance of Previous Rule

Since the issuance of AD 97–16–06, the Direction Gonorale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has

informed the FAA that cracks have been found in the internal angle fittings of the wing center box at fuselage frame FR 47 on airplanes that had not reached the threshold of the fastener hole inspections required by AD 97–16–06. The DGAC also has informed the FAA that cracks have been found in additional fastener holes that were not required to be inspected by AD 97–16–06.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–57–6049, Revision 3, dated December 15, 1998, which describes procedures for performing a rotating probe inspection to detect cracks of the attachment holes H, I, K, L, M and N, and various follow-on actions. (These follow-on actions include reaming/drilling holes and installing new fasteners.) The service bulletin also describes procedures for repair of certain cracking conditions. The repair procedures include reaming/drilling holes, re-inspecting the hole, and trimming the external fitting. The service bulletin permits further flight, under certain conditions, with attachment holes that are cracked within certain limits. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–147–279(B) R1, dated July 12, 2000, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–16–06 to require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Proposed Rule and Relevant Service Information

Operators should note that, unlike the procedures described in the referenced service bulletin, this proposed AD would not permit further flight with cracking detected in the attachment holes. The FAA has determined that, due to safety implications and consequences associated with such cracking, the subject attachment holes that are found to be cracked must be repaired prior to further flight. Repairs would be required to be accomplished in accordance with a method approved by the FAA, the DGAC (or its delegated agent), or the service bulletin described previously, as applicable.

Operators also should note that, unlike particular provisions in the service bulletin regarding adjustment of the compliance times using an ''adjustment-for-range'' formula, this proposed AD would not permit formulaic adjustments of the inspection compliance times. The FAA has determined that such adjustments may present difficulties in determining if the applicable inspections and modifications have been accomplished within the appropriate time frame. Further, while such adjustable compliance times are utilized as part of the Maintenance Review Board program, they do not fit practically into the AD tracking process for operators or for Principal Maintenance Inspectors attempting to ascertain compliance with AD's. Therefore, the FAA has determined that fixed compliance times should be specified for accomplishment of the actions required by this AD.

Additionally, after discussions with the DGAC and the manufacturer, the FAA has determined that flight-hour maximums should be included as part of the compliance threshold and repetitive intervals for the inspections required by this proposed AD. Inclusion of a compliance threshold in terms of total flight hours as well as total flight cycles, and requiring inspection at the earlier of those times, will ensure that airplanes with longer-than-average flight times are inspected at a threshold and intervals necessary to maintain safety. Accordingly, the FAA has specified that the initial inspection must be accomplished at the earliest time an airplane reaches certain accumulated total flight cycles or total flight hours, and that repetitive inspections are to be accomplished at intervals not to exceed certain flight cycles or flight hours, whichever occurs first.

Furthermore, the service bulletin specifies that operators need not count touch-and-go landings in determining the total number of landings between two consecutive inspections, when those landings are less than five percent of the landings between inspection intervals. Since fatigue cracking that was was found on the forward fitting of fuselage frame FR47 at the level of the last fastener of the external angle fitting is aggravated by landing, the FAA finds that all touch-and-go landings must be counted in determining the total number of landings between two consecutive inspections.

The service bulletin also recommends a grace period of 1,500 flight cycles (after receipt of the service bulletin) for accomplishing the rotating probe inspection, unless the threshold has been exceeded by more than 2,000 flight cycles; in which case, the grace period is 750 flight cycles (after receipt of the service bulletin). The FAA has determined that a grace period of 750 flight cycles and 1,700 flight hours, as applicable, would address the identified unsafe condition in a timely manner. In developing an appropriate grace period for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (7 work hours). In light of all of these factors, the FAA finds a grace period of 750 flight cycles and 1,700 flight hours, as applicable, for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Explanation of Change to Applicability

The applicability throughout AD 97–16–06 reads ''all Model A300–600 series airplanes.'' The FAA has revised the applicability of this proposed AD to identify the specific affected model designations as published on the type certificate data sheet [*i.e.,* Model A300 B4–600 (A300–600), A300 B4–600R, and A300 F4–600R series airplanes].

Cost Impact

There are approximately 74 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are proposed in this AD action would take approximately 7 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost as

much as $6,327 per airplane. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to cost as much as $499,278, or $6,747 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10097 (62 FR 44888, August 25, 1997), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 99–NM–322–AD. Supersedes AD 97–16–06, Amendment 39–10097.

Applicability: All Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (A300–600), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the airframe, accomplish the following:

Inspection of Holes H, I, K, L, M, and N

(a) Perform a rotating probe inspection to detect cracks of the attachment holes H, I, K, L, M, and N on the left and right internal angles of the wing center box, in accordance with Airbus Service Bulletin A300–57–6049, Revision 3, dated December 15, 1998, at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD.

(1) For airplanes on which Airbus Modification 10454 (reference Airbus Service Bulletin A300–57–6050) and Airbus Modification 10155 have not been installed: Inspect at the earlier of the times specified in paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 10,400 total flight cycles, or within 750 flight cycles after the effective date of this AD, whichever occurs later; or

(ii) Prior to the accumulation of 23,900 total flight hours, or within 1,700 flight hours after the effective date of this AD, whichever occurs later.

(2) For airplanes on which Airbus Modification 10454 (reference Airbus Service Bulletin A300–57–6050) or Airbus Modification 10155 has been installed: Inspect at the earlier of the times specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Prior to the accumulation of 14,200 total flight cycles, or within 750 flight cycles after the effective date of this AD, whichever occurs later; or

(ii) Prior to the accumulation of 32,600 total flight hours, or within 1,700 flight hours after the effective date of this AD, whichever occurs later.

No Cracking Found: Installation of New Fastener and Repetitive Inspections

(b) If no crack is found during any rotating probe inspection required by paragraph (a) of this AD, prior to further flight, install new fasteners in accordance with Airbus Service Bulletin A300–57–6049, Revision 3, dated December 15, 1998. Repeat the rotating probe inspection thereafter at intervals not to exceed 5,900 flight cycles or 13,500 flight hours, whichever occurs first.

Cracking Found: Corrective Actions

(c) If any crack is found during any rotating probe inspection required by paragraph (a) of this AD that is within the limits specified in Airbus Service Bulletin A300–57–6049, Revision 3, dated December 15, 1998, prior to further flight, except as required by paragraph (d) of this AD, accomplish all applicable corrective actions (including reaming, drilling, drill-stopping holes, chamfering, follow-on inspections, and installing new or oversize fasteners), in accordance with the service bulletin. Repeat the rotating probe inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 5,900 flight cycles or 13,500 flight hours, whichever occurs first.

(d) If any crack is found during any rotating probe inspection required by paragraph (a) of this AD that exceeds the limits specified in Airbus Service Bulletin A300–57–6049, Revision 3, dated December 15, 1998, or if any cracking remains after the applicable repairs required by paragraph (c) of this AD, prior to further flight, repair the crack in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (DGAC) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(e)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 97–16–06, amendment 39–10097, are approved as alternative methods of compliance with this AD.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the

Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 1999–147–279(B) R1, dated July 12, 2000.

Issued in Renton, Washington, on July 14, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18403 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–24–AD]

Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) for Bell Helicopter Textron Canada (BHTC) Model 407 helicopters. This proposal would require inspecting the brackets that attach each horizontal stabilizer slat (slat) to the stabilizer for a crack and replacing the slat assembly if a crack is found. Installing airworthy segmented slat assemblies would be required prior to flight after December 31, 2000 and would constitute terminating action for the requirements of this AD. This proposal is prompted by an incident in which a slat separated from a helicopter. The actions specified by the proposed AD are intended to prevent a slat from separating, impact with a main or tail rotor blade, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–24–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–24–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–24–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

Transport Canada, which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises that a slat could depart, contact one of the rotors, and lead to loss of control of the helicopter. To ensure that there is no pre-load condition on the brackets that secure the slats to the stabilizer, BHTC has introduced segmented slat assemblies, P/N 407–023–001–101.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 407–99–32, dated December 7, 1999, which specifies replacing the slat assemblies. Transport Canada classified this service bulletin as mandatory and issued AD No. CF–2000–09, dated March 21, 2000, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

The FAA has identified an unsafe condition that is likely to exist or develop on other BHTC Model 407 helicopters of the same type design registered in the United States. The proposed AD would require visually inspecting the brackets, part number (P/N) 206–023–119–109 or –110, or P/N 407–023–801–127 or –128, for a crack. The inspections must occur within the next 50 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS until the installation of airworthy segmented slat assemblies, P/N 407–023–001–101, is accomplished. Installing airworthy segmented slat assemblies would be required prior to flight after December 31, 2000 and would constitute terminating action for the requirements of this AD. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 348 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per helicopter to perform the visual inspections, 1 work hour to replace a slat assembly, and that the average labor rate is $60 per work hour. Required parts would cost approximately $2,364 per segmented slat assembly. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,697,544, assuming 1 inspection per helicopter and replacement of the 2 slat assemblies on each helicopter.

The regulations proposed herein would not have a substantial direct

effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Bell Helicopter Textron Canada: Docket No. 2000–SW–24–AD.

Applicability: Model 407 helicopters, serial numbers 53000 through 53347, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a horizontal stabilizer slat (slat) from separating, impact with a main or tail rotor blade, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 50 hours time-in-service (TIS) and thereafter at intervals not to exceed 100 hours TIS, visually inspect the brackets, part number (P/N) 206–023–119–109 or –110 or P/N 407–023–801–127 or –128, that attach the slats, P/N 407–023–002–117, to the horizontal stabilizer for a crack.

(1) If any crack is found, replace the slat assembly, P/N 407–023–002–117, with an airworthy segmented slat assembly, P/N 407–023–001–101, before further flight. Replace the slat assembly in accordance with Part II of the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. ASB 407–99–32, dated December 7, 1999.

(2) If no crack is found, replace each slat assembly, P/N 407–023–002–117, with an airworthy segmented slat assembly, P/N 407–023–001–101, prior to flight after December 31, 2000.

(b) Installing airworthy segmented slat assemblies, P/N 407–023–001–101, constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–2000–09, dated March 21, 2000.

Issued in Fort Worth, Texas, on July 12, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–18404 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–25–AD]

Airworthiness Directives; Eurocopter France Model AS–350B, BA, B1, B2, B3, C, D, and D1, and AS–355E, F, F1, F2 and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD) that applies to Eurocopter France Model AS–350B, BA, B1, B2, C, D, and D1, and AS–355E, F, F1, and F2 helicopters. That AD currently requires inspections of the main rotor head components, the main gearbox (MGB) suspension bars, and the ground resonance prevention system components. This action would require those same inspections, but would also apply to Model AS–350B3 and AS–355N helicopters. This proposal is prompted by the inadvertent omission of those model helicopters from the previous AD. The actions specified by the proposed AD are intended to prevent ground resonance due to reduced structural stiffness, which could lead to failure of a main rotor head or MGB suspension component and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 18, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–25–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–25–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

You may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000–SW–25–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On April 4, 2000, the FAA revised AD 86–15–10, Amendment 39–5517 (52 FR 13233, April 22, 1987) by issuing AD 86–15–10 R2, Amendment 39–11681 (65 FR 20721, April 18, 2000). That revision requires an initial inspection at 10 hours time-in-service (TIS) and then repetitive inspections at intervals not to exceed 500 hours TIS of the main rotor head components, the MGB suspension bars, and the ground resonance prevention system components. The revision was prompted by reports of confusion and unnecessary costs associated with the difference in the previously-required 400 hours TIS inspection interval and the current manufacturer's master service recommendation of 500 hours TIS inspection interval. The requirements of that revised AD are intended to eliminate confusion and unnecessary costs and to prevent ground resonance due to reduced structural stiffness, which could lead to failure of a main rotor head or MGB suspension component and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has determined that Model AS–350B3 and AS–355N helicopters were inadvertently omitted from the applicability of the revised AD. Model AS–350B3 was omitted because it is a newer model helicopter and was not part of the Type Certificate Data Sheet when the revised AD was issued. Model AS–355N was included in the preamble of AD 86–15–10 R2, but was inadvertently omitted in the applicability list of that AD.

Since an unsafe condition has been identified that is likely to exist or develop on other Model AS–350B, BA, B1, B2, B3, C, D, and D1, and AS–355E, F, F1, F2 and N helicopters of the same type design, the proposed AD would supersede AD 86–15–10, AD 86–15–10 R1, and AD 86–15–10 R2 to require repetitive inspections of the main rotor head components, the MGB suspension bars, and the ground resonance prevention system components at intervals not to exceed 500 hours TIS.

The FAA estimates that 586 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $480 per helicopter, or $281,280 for the entire fleet.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11681 (65 FR 20721, April 18, 2000), Amendment 39–6515 (55 FR 5833, February 20, 1990) and Amendment 39–5517 (52 FR 13233, April 22, 1987), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. 2000–SW–25–AD. Supersedes AD 86–15–10 R2, Amendment 39–11681, Docket No. 98–SW–82–AD; AD 86–15–10R1, Amendment 39–6515, Docket No. 86–ASW–22; and AD 86–15–10, Amendment 39–5517, Docket No. 86–ASW–22.

Applicability: Model AS–350B, BA, B1, B2, B3, C, D, and D1, and AS–355E, F, F1, F2 and N helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ground resonance due to reduced structural stiffness, which could lead to failure of a main rotor head or main gearbox (MGB) suspension component and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS):

(1) For Model AS–350B, BA, B1, B2, B3, C, D, and D1 helicopters, inspect the main rotor head components, the MGB suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with paragraph CC.3 of

Aerospatiale Service Bulletin (SB) No. 01.17a (not dated).

(2) For Model AS–355E, F, F1, F2, and N helicopters, inspect the main rotor head components, the MGB suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with paragraph CC.3 of SB No. 01.14a (not dated).

(b) Rework or replace damaged components in accordance with SB No. 01.17a or SB No. 01.14a, as applicable.

(c) Repeat the inspections and rework required by paragraphs (a) and (b) of this AD at intervals not to exceed 500 hours TIS.

(d) If the helicopter is subjected to a hard landing or to high surface winds when parked without effective tiedown straps installed, repeat the inspections required by paragraph (a) of this AD for the main rotor head star arms and the MGB suspension bars (struts) before further flight.

(e) After a landing with abnormal self-sustained dynamic vibrations (ground resonance type vibrations), repeat all the inspections required by paragraph (a) of this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on July 12, 2000.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–18405 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–35–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80A3 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to General Electric Company CF6–80A3 series turbofan engines. The existing AD currently requires initial and repetitive on-wing borescope inspections of the left hand aft engine mount link assembly for cracks, bearing migration, and, bearing race rotation, and if necessary, replacement with serviceable parts. This proposal would require initial and repetitive visual inspections of both left hand and right hand aft engine mount link assemblies for separations, cracks, and bearing race migration. Cracked or separated parts would have to be replaced prior to further flight. If spherical bearing race migration is discovered, a borescope inspection for cracks is also proposed. If no cracks are discovered by the additional borescope inspection, assemblies would have a 75-cycle grace period for remaining in service before replacement. Finally, installation of improved aft engine mount link assemblies would constitute terminating action to the inspections of this proposed AD. This proposal is prompted by a recent analysis of internal bearing friction and bearing migration and inspections which revealed migrated spherical bearing races on two CF6–80A3 series and ten CF6–80C2 series aft engine mount links. The actions specified by the proposed AD are intended to prevent aft engine mount link failure, which can result in adverse redistribution of the aft engine mount loads and possible aft engine mount system failure.

DATES: Comments must be received by September 18, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–35–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9–ane–adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Rohr, Inc., 850 Lagoon Dr., Chula Vista, CA 91910–2098; telephone 619–691–3102, fax 619–498–7215. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7192, fax 781–238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–35–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–35–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On July 15, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98–15–17, Amendment 39–10668 (63 FR 39489, July 23, 1998), applicable to General Electric Company (GE) CF6–80A3 series turbofan engines. That AD requires initial and repetitive on-wing borescope inspections of the left hand aft engine mount link assembly for cracks, bearing migration, and bearing race rotation, and, if necessary, replacement with serviceable parts. That action was

prompted by a report of a fractured left hand aft engine mount link discovered during a scheduled engine removal. That condition, if not corrected, could result in aft engine mount link failure, which can result in adverse redistribution of the aft mount loads and possible aft mount system failure.

Due to the similarities between the link assembly designs, on June 28, 2000, the FAA also published a comparable rule for CF6–80C2 engine models installed on A300, A310, and MD–11 applications (AD 2000–12–08).

Recent Analysis

Since the issuance of AD 98–15–17, analysis into internal bearing friction and bearing race migration that could result in higher stress levels and reduced fatigue capability of aft engine mount links has been conducted. The analysis indicates that aft engine mount link spherical bearing race migration adversely affects link fatigue life and that right hand, as well as left hand, aft engine mount link assemblies are affected. Recent inspections also revealed migrated spherical bearing races on two CF6–80A3 series and ten CF6–80C2 series aft engine mount links. This condition, if not corrected, could result in aft engine mount link failure, which can result in adverse redistribution of the aft engine mount loads and possible aft engine mount system failure.

Service Information

The FAA has reviewed and approved the technical contents of Rohr Service Bulletin CF6–80A3–NAC–A71–064, dated April 4, 2000, that describes the aft engine mount link replacement. The FAA also has reviewed and approved the technical contents of Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated February 22, 2000, that describes procedures for visual inspections of existing left hand and right hand aft engine mount link assemblies for separations, cracks, and spherical bearing race migration and provides rejection criteria.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–15–17 to require initial and repetitive visual inspections of both left hand and right hand aft engine mount link assemblies for separations, cracks, and bearing race migration. If bearing race migration is discovered, this proposal would require a borescope inspection for cracks. Aft engine mount link assemblies found cracked would have to be replaced with serviceable parts prior to further flight. Aft engine mount link assemblies discovered with bearing race migration would be able to remain in service for another 75 cycles-in-service (CIS) following borescope inspection prior to replacement with serviceable parts. All left hand and right hand aft engine mount link assemblies would have to be replaced at the next engine shop visit with improved assemblies, which would constitute terminating action to the inspections. These actions would be required to be accomplished in accordance with the service bulletins described previously.

Economic Analysis

There are approximately 120 engines of the affected design in the worldwide fleet. The FAA estimates that 59 engines installed on aircraft of US registry would be affected by this proposed AD, that the cost of replacement link assemblies is approximately $9,737, that it would take approximately 2 work hours per engine to accomplish the proposed interim inspections, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD over 3 years on US operators is estimated to be $588,614.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10668 (63 FR 39489, July 23, 1998) and by adding a new airworthiness directive to read as follows:

General Electric Company: Docket No. 98–ANE–35–AD. Supersedes AD 98–15–17, Amendment 39–10668.

Applicability: General Electric Company (GE) CF6–80A3 series turbofan engines, with left hand aft engine mount link assemblies, part numbers (P/Ns) 224–1608–501, 224–1608–503, or 224–1608–505 installed, or right hand aft engine mount link assemblies, P/Ns 224–1609–503, 224–1609–505, or 224–1609–507 installed. These engines are installed on but not limited to Airbus Industrie A310–200 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent aft engine mount link failure, which can result in adverse redistribution of the aft engine mount loads and possible aft engine mount system failure, accomplish the following:

Initial Inspection

(a) Inspect aft engine mount link assemblies as follows:

Not Previously Inspected

(1) Within 400 cycles-in-service (CIS) after the effective date of this AD, if not previously inspected using Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated

February 22, 2000, or Rohr Service Bulletin CF6–80A3–NAC–A71–061, dated April 16, 1999; or

Previously Inspected

(2) Within 400 cycles-since-last-inspection (CSLI), if previously inspected using Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated February 22, 2000, or Rohr Service Bulletin CF6–80A3–NAC–A71–061, dated April 16, 1999.

(3) Visually inspect for: separations, cracks, and spherical bearing race migration.

(4) Inspect in accordance with the Accomplishment Instructions of Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated February 22, 2000.

Cracked or Separated Parts

(5) If a crack or separation is discovered, prior to further flight, remove the cracked or separated aft engine mount link assembly and the attaching hardware from service, and replace with serviceable parts.

Removal of Aft Engine Mount Link Assemblies With Spherical Bearing Race Migration

(6) If an aft engine mount link assembly is found with spherical bearing race migration, but no cracks or separations, prior to further flight, do either of the following:

Removal

(i) Remove the aft engine mount link assembly and the attaching hardware from service and replace with serviceable parts; or

Additional Borescope Inspection of Aft Engine Mount Link Assemblies With Spherical Bearing Race Migration

(ii) Perform an additional borescope inspection for cracks in accordance with paragraphs (2)(D)(5) and (2)(G)(5) of the Accomplishment Instructions of Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated February 22, 2000, and perform the following:

After Additional Borescope Inspection, if Parts Are Cracked

(A) If a crack indication is discovered, prior to further flight, remove the cracked aft engine mount link assembly and the attaching hardware from service, and replace with serviceable parts.

After Additional Borescope Inspection, If Parts Are Not Cracked (Grace Period)

(B) If crack indications are not discovered, within 75 CIS after the inspection performed in accordance with paragraph (a)(6)(ii) of this AD, remove the aft engine mount link assembly from service, and replace with serviceable parts.

Attaching Hardware

(iii) Attaching hardware may be returned to service after inspection in accordance with paragraphs 2(D)(6)(a) or 2(G)(6)(a) of Rohr Service Bulletin CF6–80A3–NAC–A71–061, Revision 1, dated February 22, 2000, only if inspection of the removed link shows no cracks or separations.

Note 2: Link attaching hardware includes the nuts, bolts and washers that secure the link.

Repetitive Inspections

(b) Thereafter, perform the actions required by paragraph (a) and associated subparagraphs at intervals not to exceed 400 CSLI.

Replacement With Improved Link Assemblies

(c) Replace aft engine mount link assemblies with improved aft engine mount link assemblies at the next engine shop visit (ESV), or prior to accumulating 29,000 engine cycles since new (CSN), whichever occurs first.

(1) Replace in accordance with the Accomplishment Instructions of Rohr Service Bulletin CF6–80A3–NAC–A71–064, dated April 4, 2000.

Left Hand Aft Engine Mount Link Assemblies

(2) Replace left hand aft engine mount link assemblies, P/Ns 224–1608–501, 224–1608–503, or 224–1608–505, with improved left hand aft engine mount link assemblies, P/Ns 224–1608–507 or 224–1608–509.

Right Hand Aft Engine Mount Link Assemblies

(3) Replace right hand aft engine mount link assemblies, P/Ns 224–1609–503, 224–1609–505, or 224–1609–507, with improved right hand aft engine mount link assemblies, P/Ns 224–1609–509 or 224–1609–511.

Terminating Action

(4) Installation of improved aft engine mount link assemblies in accordance with paragraph (c) and its subparagraphs constitutes terminating action to the inspections required by paragraphs (a) and (b) of this AD.

Alternate Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

Ferry Flights

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the inspection requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on July 14, 2000.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–18406 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AJ80

Accelerated Benefits Option for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Veterans Programs Enhancement Act of 1998 authorizes the payment of accelerated benefits to terminally ill persons in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. This document proposes to amend the Department of Veterans Affairs (VA) regulations to establish a mechanism for implementing these statutory provisions.

DATES: Comments must be received on or before September 18, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to ''*OGCRegulations@mail.va.gov*''. Comments should indicate that they are submitted in response to ''RIN 2900–AJ80.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Greg Hosmer, Senior Attorney/Insurance Specialist, Insurance Program Administration and Oversight, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 842–2000, ext. 4280 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document proposes to amend VA regulations for the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs to add accelerated death benefit (Accelerated Benefit) provisions that permit terminally ill policyholders access to the death benefits of their policies before they die. Traditionally, an individual purchases life insurance in order to safeguard his or her dependents against major financial loss due to his or her death. Life insurance serves to replace the lost income of an insured and to provide for his or her

final expenses. In recent years, the insurance industry has recognized the financial needs of terminally ill policyholders and has begun offering policies with accelerated benefit provisions. A recent statutory amendment (section 302 of the Veterans Programs Enhancement Act of 1998, Pub. L. 105–368, 112 Stat. 3315, 3332–3333) added section 1980 to title 38, United States Code, which extends an accelerated benefit option to terminally ill persons insured in the SGLI and VGLI programs.

Proposed paragraph (a) is informative in that it explains that an Accelerated Benefit is a payment to the insured of a portion of a SGLI or VGLI insurance benefit before the insured dies.

Proposed paragraph (b), among other things, states that a person insured under SGLI or VGLI is eligible to receive an Accelerated Benefit if the person has a written medical prognosis from a physician of nine months or less to live. These provisions are proposed pursuant to 38 U.S.C. 1980(a) which states that a person is considered to be terminally ill and eligible for an Accelerated Benefit if, based on a medical prognosis, ''the life expectancy of the person is less than a period prescribed by the Secretary * * * not [to] exceed 12 months.'' We believe that a written medical prognosis from a physician is consistent with the statutory intent. Further, we propose that the time period of life expectancy for allowing the payment of an Accelerated Benefit should be nine months or less. The nine-month maximum is the same period that is provided for civilian Federal employees who are insured by the Federal Employees Group Life Insurance (FEGLI) program, as authorized by the ''FEGLI Living Benefits Act,'' Public Law 103–409. We believe that it is reasonable to have the same time period for individuals regardless of whether the program concerns military or civilian service.

Proposed paragraph (c) states that only the insured member can apply for an Accelerated Benefit. We believe this is necessary so that the insured is responsible for the determination to obtain an Accelerated Benefit.

Under the provisions of proposed paragraph (d) an insured may request as an Accelerated Benefit an amount up to a maximum of 50% of the face value of coverage and the request must be $5,000 or a multiple of $5,000. Under paragraph (e) the insured may receive such an amount requested, minus an interest reduction determined based on actuarial principles to be lost because of early payment. We believe this is the maximum amount that we can pay an insured under our statutory authority in 38 U.S.C. 1980 in accordance with our mandate to prescribe a maximum amount that we find to be ''administratively practicable and actuarially sound.''

Proposed paragraph (f) provides that application for an Accelerated Benefit must be made on a form entitled ''Claim for Accelerated Benefits,'' a form which must be completed by the terminally ill applicant, his or her physician, and, if on active duty, the personnel office of the servicemember's unit. This is necessary to ensure that sufficient information is submitted for determinations under this section.

Under proposed paragraph (g) and other provisions of this proposed rule, the Office of Servicemembers' Group Life Insurance (OSGLI) would administer the Accelerated Benefits program. This includes making the necessary determinations regarding the payment of Accelerated Benefits. This is authorized under 38 U.S.C. 1966 and 1980.

Proposed paragraph (h) states that an Accelerated Benefit will be paid in a lump sum. This reflects statutory provisions at 38 U.S.C. 1980(b) and (c).

According to 38 U.S.C. 1980(f)(1), an election to receive Accelerated Benefits is irrevocable. We proposed to define the term ''election'' for purposes of section 1980(f)(1) in paragraph (i) of the proposed rule as the time when an insured member cashes or deposits an accelerated benefit. After that election, the request for an accelerated benefit could not be cancelled. However, until that time, the insured member may cancel the request by informing OSGLI in writing and by returning the check if one was received. An insured member could later reapply by requesting the same or a different amount of benefits. Also, if an insured member died before cashing or depositing an accelerated benefit payment, the check must be returned to VA. These provisions are consistent with the provisions of 38 U.S.C. 1980.

Proposed paragraph (j) states that an insured member is not eligible for additional accelerated benefits once he or she cashes or deposits an accelerated benefit payment. This is mandated by the provisions of 38 U.S.C. 1980 which state that an individual may not make more than one election for accelerated benefits.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, as amended (44 U.S.C. 3501–3520), this proposed rule includes information collection provisions in 38 CFR 9.14(e). In accordance with section 3507(d) of the Act and 5 CFR 1320.11, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ80.''

Title: Application by Insured Terminally Ill Person for Accelerated Benefit.

Summary of collection of information: In proposed 38 CFR 9.14(e), VA would require that a terminally ill person insured under Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI) who wants to receive a lump-sum payment to the insured prior to the insured's death of a portion of the insurance must submit to Prudential Life Insurance's Office of Servicemembers' Group Life Insurance a completed application for an Accelerated Benefit. The application must be on a form set forth in § 9.14(e) which includes a medical prognosis by a physician stating the life expectancy of the insured person and a statement by the insured of what portion of the insurance he or she requests.

Description of need for information and proposed use of information: The information is needed to comply with the statutory provisions permitting an insured person who is terminally ill to request payment of a portion of the face value of the insured person's SGLI or VGLI insurance as an Accelerated Benefit.

Description of likely respondents: Terminally ill persons insured under SGLI or VGLI and their physicians.

Estimated number of respondents: 200 annually.

Estimated frequency of responses: Once.

Estimated total annual reporting and recordkeeping burden: 2,400 minutes.

Estimated average burden per collection: 12 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

Executive Order 12866

The Office of Management and Budget has reviewed this proposed rule under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would affect only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program number for this rule is 64.103.

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Approved: February 22, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 9 is proposed to be amended as set forth below:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

1. The authority citation for part 9 is revised to read as follows:

Authority: 38 U.S.C. 501, 1965–1980, unless otherwise noted.

2. Section 9.14 is added to read as follows:

§ 9.14 Accelerated Benefits.

(a) *What is an Accelerated Benefit?* An Accelerated Benefit is a payment of a portion of your Servicemembers' Group Life Insurance or Veterans' Group Life Insurance to you before you die.

(b) *Who is eligible to receive an Accelerated Benefit?* You are eligible to receive an Accelerated Benefit if you have a valid written medical prognosis from a physician of 9 months or less to live, and otherwise comply with the provisions of this section.

(c) *Who can apply for an Accelerated Benefit?* Only you, the insured member, can apply for an Accelerated Benefit. No one can apply on your behalf.

(d) *How much can you request as an Accelerated Benefit?*

(1) You can request as an Accelerated Benefit an amount up to a maximum of 50% of the face value of your insurance coverage.

(2) Your request for an Accelerated Benefit must be $5,000 or a multiple of $5000 (for example, $10,000, $15,000).

(e) *How much can you receive as an Accelerated Benefit?* You can receive as an Accelerated Benefit the amount you request up to a maximum of 50% of the face value of your insurance coverage, minus the interest reduction. The interest reduction is the amount the Office of Servicemembers' Group Life Insurance actuarially determines to be the amount of interest that would be lost because of the early payment of part of your insurance coverage. This means that if you have $100,000 in coverage and you request the maximum amount that you are eligible to request as an Accelerated Benefit, you will be paid $50,000 minus the interest reduction.

(f) *How do you apply for an Accelerated Benefit?* (1) You can obtain an application form entitled ''Claim for Accelerated Benefits'' by writing the Office of Servicemembers'' Group Life Insurance, 213 Washington Street, Newark, New Jersey 07102–2999; calling the Office of Servicemembers' Group Life Insurance toll-free at 1–800–219–1473; or downloading the form from the internet at *www. va. insurance.gov.* You must submit the completed application form to the Office of Servicemembers' Group Life Insurance, 213 Washington Street, Newark, New Jersey 07102–2999.

(2) As stated on the application form, you will be required to complete part of the application form and your physician will be required to complete part of the application form. If you are an active duty servicemember, your branch of service will also be required to complete part of the form.

To Be Completed by Insured

Claim for Accelerated Benefits

Your name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Social Security Number: ☐☐☐☐☐☐☐☐☐
Your home address: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Date of birth: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Branch of Service (if covered under SGLI): ☐
Your mailing address (if different from above): ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Amount of SGLI coverage: $ ☐☐☐☐☐☐☐
Amount of claim (can be no more than one-half of coverage in increments of $5,000): ☐
Type of coverage (check one):

☐ SGLI (circle one of the following): Active Duty Ready Reserve Army or Air National Guard Separated or Discharged
☐ VGLI

Note: If you checked SGLI, you must also have your military unit complete the attached form.

I acknowledge that I have read all of the attached information about the accelerated benefit. I understand that I can get this benefit only once during my lifetime and that I can use it for any purpose I choose. I further understand that the face amount of my coverage will reduce by the amount of accelerated benefit I choose to receive now.

Your signature: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Date: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Authorization To Release Medical Records

To all physicians, hospitals, medical service providers, pharmacists, employers, other insurance companies, and all other agencies and organizations:

You are authorized to release a copy of all my medical records, including examinations, treatments, history, and prescriptions, to the Office of Servicemembers' Group Life Insurance (OSGLI) or its representatives.

Printed name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Signature: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Date: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

A photocopy of this authorization will be considered as effective and valid as the original.

Valid for one year from date signed.

To Be Completed by Physician

Attending Physician's Certification

Patient's name: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Patient's Social Security Number: ☐☐☐☐☐
Diagnosis: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
ICD–9–CM Disease Code *: ☐☐☐☐☐☐☐
Description of present medical condition (please attach results of x-rays, E.K.G. or other tests): ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Is the patient capable of handling his/her own affairs? ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐ Yes☐ ☐ No ☐
The patient applied for an accelerated benefit under his/her government life insurance coverage. To qualify, the patient must have a life expectancy of nine (9) months or less. Does your patient meet this requirement? ☐☐☐☐
☐ Yes☐ ☐ No
Attending Physician's name (please print): ☐
State in which you are licensed to practice:
Specialty: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Mailing address: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Telephone number: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Fax Number: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Signature: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Date: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

* ICD–9–CM is an acronym for International Classification of Diseases, 9th revision, Clinical Modification.

To Be Completed by Personnel Office of Servicemember's Unit

(Complete this form only if the applicant for Accelerated Benefits is covered under SGLI.)

Branch of Service Statement

Servicemember's name: ☐☐☐☐☐☐☐☐☐
Social Security Number: ☐☐☐☐☐☐☐☐☐
Branch of Service: ☐☐☐☐☐☐☐☐☐☐☐☐
Amount of SGLI coverage: $ ☐☐☐☐☐☐☐
Monthly premium amount: $ ☐☐☐☐☐☐☐
Name of person completing this form: ☐☐☐
Telephone Number: ☐☐☐☐☐☐☐☐☐☐☐
Fax Number: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Title of person completing this form: ☐☐☐
Duty Station and address: ☐☐☐☐☐☐☐☐
Signature of person completing this form: ☐
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
Date: ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Notice: It is fraudulent to complete these forms with information you know to be false or to omit important facts. Criminal and/or civil penalties can result from such acts.

(g) *Who decides whether or not an Accelerated Benefit will be paid to you?* The Office of Servicemembers' Group Life Insurance will review your application and determine whether you meet the requirements of this section for receiving an Accelerated Benefit.

(1) They will approve your application if the requirements of this section are met and may deny your application if the requirements of this section are not met.

(2) If the Office of Servicemembers' Group Life Insurance determines that your application form does not fully and legibly provide the information requested by the application form, they will contact you and request that you or your physician submit the missing information to them. They will not take action on your application until the information is provided.

(h) *How will an Accelerated Benefit be paid to you?* An Accelerated Benefit will be paid to you in a lump sum.

(i) *What happens if you change your mind about an application you filed for Accelerated Benefits?* (1) An election to receive the Accelerated Benefit is made at the time you have cashed or deposited the Accelerated Benefit. After that time, you cannot cancel your request for an Accelerated Benefit. Until that time, you may cancel your request for benefits by informing the Office of Servicemembers' Group Life Insurance in writing that you are canceling your request and by returning the check if you have received one. If you want to change the amount of benefits you requested or decide to reapply after canceling a request, you may file another application in which you request either the same or a different amount of benefits.

(2) If you die before cashing or depositing an Accelerated Benefit payment, the payment must be returned to the Office of Servicemembers' Group Life Insurance. Their mailing address is 213 Washington Street, Newark, New Jersey 07102–2999.

(j) *If you have cashed or deposited an Accelerated Benefit, are you eligible for additional Accelerated Benefits?* No.

(Authority: 38 U.S.C. 1966, 1980)

[FR Doc. 00–18327 Filed 7–19–00; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC 045–2020b; FRL–6838–4]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Approval of National Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the District of Columbia which commits the District to accept sales of motor vehicle that comply with the requirements of the National Low Emission Vehicle (National LEV) Program that applies to newly manufactured motor vehicles sold in the District, starting with the 1999 model year. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments, we will not take further action on this proposed rule. If EPA does receive adverse comments, we will withdraw the related direct final rule and it will not take effect. We will address any public comments received in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action must do so at this time.

DATES: Comments must be received in writing by August 21, 2000.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, at the EPA Region III address above, or by e-mail at: rehn.brian@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: June 30, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–18109 Filed 7–19–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6731–2]

Approval and Promulgation of Implementation Plans: Revision of the Visibility FIP for Nevada

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is conducting a review of, and proposing to revise, the long-term strategy portion of the Nevada federal implementation plan (FIP) for Class I visibility protection (Nevada Visibility FIP). EPA proposes to revise the Nevada Visibility FIP to include emissions reduction requirements for the Mohave Generating Station (MGS), which is located in Clark County, Nevada. The proposed requirements are based on a consent decree entered into by the owners of MGS and the Grand Canyon Trust (GCT), the Sierra Club, and the National Parks and Conservation Association (NPCA). EPA believes that the emissions reductions that will result from compliance with the consent decree will address concerns raised by the Department of the Interior (DOI or Department) regarding the Mohave Generating Station's contribution to visibility impairment at the Grand Canyon National Park (GCNP) due to sulfur dioxide (SO_2) emissions. EPA also believes that adopting the requirements of the consent decree into the long-term strategy of the Nevada Visibility FIP will allow for reasonable progress toward the Clean Air Act national visibility goal with respect to the Mohave Generating Station's contribution to visibility impairment at the Grand Canyon National Park due to SO_2 emissions.

DATES: Comments on this proposed rule must be submitted no later than August 21, 2000.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: EPA Region IX, 75 Hawthorne Street (AIR2), San Francisco, CA 94105, Attn: Regina Spindler (Phone: 415–744–1251).

Docket: EPA has established a docket for this notice, Docket Number A2–99–01. Materials related to the development of this notice have been placed in this docket. The docket is available for review at: EPA Region IX, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. Interested persons may make an appointment with Regina Spindler, (415) 744–1251, to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

Electronic Availability: This document is also available as an electronic file on the EPA Region IX Web Page at http://www.epa.gov/region09/air/mohave.

FOR FURTHER INFORMATION CONTACT: Regina Spindler (415) 744–1251, Planning Office (AIR2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

Outline

I. Background

A. Statutory and Regulatory Framework

1. Clean Air Act Visibility Requirements

Section 169A of the Clean Air Act (Act or CAA), 42 U.S.C. 7491, provides for a visibility protection program and sets forth as a national goal ''the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' (The terms ''impairment of visibility'' and ''visibility impairment'' are defined in the Act to include reduction in visual range and atmospheric discoloration.) Section 169A requires EPA, after consultation with the Secretary of the Interior, to promulgate a list of ''mandatory Class I Federal areas'' where visibility is an important value. These areas include international parks, national wilderness areas and national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section 162(a) of the Act, 42 U.S.C. 7472(a). Each mandatory Class I Federal area is the responsibility of a Federal Land Manager (FLM), the Secretary of the federal department with authority over such lands. Section 302(i) of the Act, 42 U.S.C. 7602(i). On November 30, 1979, EPA identified 156 such mandatory Class I Federal areas, including the Grand Canyon National Park (GCNP) in Arizona. 44 FR 69122.

Section 169A(a)(1) of the Act states that ''Congress declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.'' Section 169A(a)(4) requires EPA to promulgate regulations to assure reasonable progress toward meeting these national visibility protection goals. EPA's regulations must require each state with a mandatory Class I Federal area (or states with emissions that may reasonably be anticipated to cause or contribute to visibility impairment in a mandatory Class I Federal area) to revise the applicable implementation plan for that state (SIP) to contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national visibility protection goal. CAA section 169A(b)(2), 42 U.S.C. 7491(b)(2). The SIP revisions for these subject states must require each existing stationary facility [1] that emits any air pollutant that may reasonably be anticipated to cause or contribute to visibility impairment in a mandatory Class I Federal area to install and operate ''best available retrofit technology'' (BART) for controlling emissions from such source to eliminate or reduce visibility

[1] For purposes of the visibility protection requirements, the term ''existing stationary facility'' means a source that falls within any of 26 listed categories, has the potential to emit 250 tons per year or more of any air pollutant, and which was not in operation prior to August 7, 1962, but was in existence on August 7, 1977. 40 CFR § 51.301.

impairment. CAA section 169A(b)(2)(A), 42 U.S.C. 7491(b)(2)(A). Pursuant to section 169A(b)(2)(B) of the Act, 42 U.S.C. 7491(b)(2)(B), EPA's regulations must further require these states to include long-term strategies in their SIP revisions for making reasonable progress toward meeting the national goal. Section 110(a)(2)(J) of the Act, 42 U.S.C. 7410(a)(2)(J), provides a corollary provision that requires SIPs to meet the visibility protection requirements of part C of the Clean Air Act.

2. EPA's Visibility Regulations

On December 2, 1980, EPA promulgated what it described as the first phase of the required visibility regulations, codified at 40 CFR 51.300–51.307. 45 FR 80084. These visibility regulations apply to 36 states, including Nevada, that contain mandatory Class I Federal areas. The visibility regulations require these 36 states to comply with the requirements set forth above, including (1) coordinating development of SIP requirements with appropriate FLMs; (2) developing a program to assess and remedy visibility impairment from new and existing sources; (3) developing a long-term strategy (10–15 years) to assure reasonable progress toward the national visibility goal; (4) developing a visibility monitoring strategy to collect information on visibility conditions; and (5) considering in all aspects of visibility protection any ''integral vistas'' (important views of landmarks or panoramas that extend outside of the boundaries of the Class I area) identified by the FLMs as critical to a visitor's enjoyment of the Class I area. 40 CFR 51.300–51.307.[2]

An FLM may, at any time, certify to a state that impairment of visibility exists in a mandatory Class I Federal area. 40 CFR 51.302(c). If the FLM certifies such impairment at least 6 months prior to submission of a revised SIP, an affected state must (1) identify each existing stationary facility which may ''reasonably be anticipated to cause or contribute'' to any impairment which is ''reasonably attributable to that existing stationary facility,'' and (2) analyze and determine what emission limitation represents the ''best available retrofit technology'' at each such facility. 40 CFR 51.302(c)(4). Visibility impairment is ''reasonably attributable'' to a facility if it is ''attributable by visual observations or any other technique the state deems appropriate.'' 40 CFR 51.301(s). The state must also include in its plan an assessment of visibility impairment and a discussion of how each element of the plan relates to preventing future or remedying existing impairment in any mandatory Class I Federal area in the state. 40 CFR 51.302(c)(2)(ii). The visibility regulations also provide for periodic review, and revision as appropriate, of the long-term strategy for making reasonable progress toward the visibility goals at a minimum frequency of every three years. 40 CFR 51.306(c). The 36 affected states were required to submit revisions to their SIPs to comply with these requirements by September 2, 1981. 40 CFR 51.302(a)(1).

3. Federal Implementation Plans for Visibility Protection

Most states did not meet the September 2, 1981 deadline for submitting a SIP revision to address visibility protection. A number of environmental groups sued EPA alleging that the Agency had failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate visibility FIPs. In settlement of the lawsuit, EPA agreed to promulgate visibility FIPs according to a specified schedule. On July 12, 1985, EPA promulgated a FIP for the visibility monitoring strategy and new source review (NSR) requirements of 40 CFR 51.304 and 51.307. 50 FR 28544. See also, 51 FR 5504 and 51 FR 22937. These provisions have been codified at 40 CFR 52.26, 52.27 and 52.28. On November 24, 1987, EPA continued its visibility FIP rulemaking by promulgating its plan for meeting the general visibility plan requirements and long-term strategies of 40 CFR 51.302 and 51.306. 52 FR 45132. The long-term strategy provisions have been codified at 40 CFR 52.29; the provisions specifically pertaining to Nevada are at 40 CFR 52.1488.

In the proposed rulemaking for the general visibility plan and long-term strategy requirements, EPA addressed certifications of existing visibility impairment submitted by the FLMs. 52 FR 7802 (March 12, 1987). EPA found that the information provided was not adequate to enable the Agency to determine whether the impairment was traceable to a single source and therefore addressable under the visibility regulations. For this reason, EPA determined that the implementation plans need not require BART or other control measures at that time. EPA also acknowledged, however, that FLMs may certify the existence of visibility impairment at any time and, therefore, FLMs might in the future provide additional information on impairment that would allow EPA to attribute it to a specific source. EPA stated that in such cases, the information regarding impairment and the need for BART or other control measures would be reviewed and assessed as part of the periodic review of the long-term visibility strategy. 52 FR 7808. EPA affirmed these determinations in its final rulemaking.

B. Visibility Impairment at the Grand Canyon National Park

1. The Department of the Interior Certification of Visibility Impairment

On November 14, 1985, the Department of the Interior certified to EPA the existence of visibility impairment in all Class I Federal areas within the Department's jurisdiction in the lower 48 states. On August 19, 1997, DOI sent a letter to EPA that reaffirmed the Department's 1985 certification of visibility impairment at the Grand Canyon National Park and stated DOI's belief that there is sufficient information available to support a ''reasonable attribution'' finding concerning the Mohave Generating Station (MGS). The DOI provided, as an attachment to its August 1997 letter, a summary prepared by the National Park Service (NPS) of studies that DOI believes demonstrate that emissions from MGS contribute to visibility impairment at GCNP. The DOI requested that if EPA agreed with DOI's assessment of ''reasonable attribution,'' EPA comply with its statutory obligation to determine the best available retrofit technology for MGS.

2. Mohave Generating Station

The Mohave Generating Station is a 1580 MW coal-fired power plant located in Laughlin, Nevada, approximately 75 miles southwest of GCNP. It was built between 1967 and 1971. It currently emits over 40,000 tons of SO_2 per year. MGS is operated by Southern California Edison Company, the majority owner of the plant. The Los Angeles Department of Water and Power, Nevada Power Company, and Salt River Project also own interests in the plant. The coal for the plant comes from the Black Mesa

[2] These visibility regulations only address the type of visibility impairment that is ''reasonably attributable'' to a single source or small group of sources. In 1980 when EPA promulgated these regulations, EPA deferred setting SIP requirements to address visibility impairment caused by ''regional haze'' (*i.e.,* a widespread, regionally homogeneous haze from a multitude of sources which impairs visibility in every direction over a large area) due to the complexity and technical limitations inherent in attempting to identify, measure, and control this type of widespread visibility impairment. In 1993, the National Academy of Sciences concluded that ''current scientific knowledge is adequate and control technologies are available for taking regulatory action to improve and protect visibility.'' EPA published final regulations to address regional haze on July 1, 1999 at 64 FR 35714.

Coal Mine on the Hopi and Navajo Reservations via a 273-mile coal slurry pipeline. The mine, operated by Peabody Western Coal Company, is jointly owned by the Navajo Nation and the Hopi Tribe. Groundwater from an aquifer underlying the Navajo and Hopi reservations provides the water for the slurry pipeline.

3. Project MOHAVE

In 1991, Congress directed EPA to conduct a tracer study to ascertain the extent to which MGS contributes to visibility impairment at GCNP. The tracer study was developed as a cooperative effort among EPA, the NPS, and Southern California Edison Company. This cooperative effort was named Project Measurement Of Haze And Visibility Effects, more commonly referred to as Project MOHAVE.

Project MOHAVE was an extensive monitoring, modeling, and data assessment project designed to estimate the contributions of the MGS to haze at GCNP. The field study component of the project was conducted in 1992 and contained two intensive monitoring periods (approximately 30 days in the winter and approximately 50 days in the summer). Tracer materials were continuously released from the MGS stack during the two intensive periods to enable the tracking of emissions specifically from MGS. Tracer, ambient particulate composition and SO_2 concentrations were measured at about 30 locations in a four-state region. Two of these monitoring sites, Hopi Point, near the main visitor center at the south rim of GCNP and Meadview near the far western end of GCNP, were used as key receptor sites representative of GCNP.

The findings of Project MOHAVE are discussed briefly in section II.A.4. below. The Project MOHAVE final report is available on the Mohave page of the EPA Region IX web site and in Docket Number A2–99–01 at the EPA Region IX office.

C. Grand Canyon Trust/Sierra Club Lawsuit

1. Overview of Complaint

On February 19, 1998, Grand Canyon Trust filed a citizen suit in the federal district court for the District of Nevada against the owners of MGS. GCT alleged that the defendants had violated several SIP provisions that apply to MGS. GCT included allegations that MGS had exceeded emission limits in the Nevada and Clark County SIPs for opacity and sulfur dioxide, and had failed to conduct necessary reporting. Sierra Club and the National Parks and Conservation Association subsequently joined GCT as plaintiffs in the citizen suit. See *Grand Canyon Trust* v. *Southern California Edison (District of Nevada)* CV–S–98–00305–LDG.

2. Settlement and Consent Decree

The litigation was eventually resolved through a consent decree entered by the court on December 15, 1999 (Mohave consent decree). The Mohave consent decree requires the installation of pollution control equipment that will reduce visibility impairing SO_2 emissions as well as particulate matter emissions and nitrogen oxides (NO_X). The consent decree requires the plant owners to install dry scrubber technology (lime spray dryers) to reduce SO_2 emissions from each boiler by at least 85% based on a 90-day rolling average. Each unit must also meet an SO_2 emission limit of .150 lb/mmbtu based on a 365-day rolling average. The owners will also install baghouses to control particulate matter emissions and ensure that each unit meets a 20% opacity limit based on a 6-minute average. New burners will also be installed in the boilers to reduce emissions of NO_X. Unit 1 must be in compliance with all pollution control requirements and emission limits by January 1, 2006 and Unit 2 by April 1, 2006. If any of the current owners sell a portion of or all of their interest in the plant, the new owners must comply with the terms of the consent decree. If all the current owners sell their interests in the plant (100% sale), the new owners would be required to install the pollution controls within 3 years and 3 months of the sale, but no later than the January 1 and April 1, 2006 dates discussed above. Prior to the final compliance dates, an interim SO_2 emissions limit of 1.0 lb/mmbtu, based on a 90-day rolling average, will apply to each boiler. The interim opacity limit is 30%, based on a 6-minute average.

D. Advance Notice of Proposed Rulemaking

On June 17, 1999, EPA published an advance notice of proposed rulemaking (ANPR) (64 FR 32458)) regarding the assessment of visibility impairment at GCNP. The ANPR provided background information on statutory and regulatory requirements for protecting visibility in national parks and wilderness areas and provided a brief summary of the methodologies and results of Project MOHAVE. In the ANPR, EPA also asked the public to submit additional information that the Agency should consider before determining whether visibility problems at GCNP can be reasonably attributed to MGS and information regarding appropriate pollution control requirements for the facility, should EPA find that any portion of the visibility impairment is reasonably attributable to MGS.

The public comment period for the ANPR closed on November 15, 1999. EPA received comments from 83 entities. Most of the comments received were from private citizens expressing concern about the environmental impact of MGS on both GCNP and the local community. Other commenters submitted their views on the findings of Project MOHAVE and whether EPA should proceed with a ''reasonable attribution'' finding and BART determination. While some commenters believe that there is ample evidence to substantiate a ''reasonable attribution'' finding, others argue that Project MOHAVE does not sufficiently prove that the MGS is causing visibility impairment at GCNP. Some commenters believe that the plant's contribution is not significant enough to warrant the imposition of pollution control requirements and that such controls would not result in a meaningful improvement in visibility at GCNP. Several commenters emphasized the economic importance of MGS to the local community and to the Navajo and Hopi, who supply coal to the plant. These commenters asked that EPA fully evaluate the economic impact of pollution control requirements on not only MGS owners but on the local community and tribes. EPA did receive a number of comments that were submitted after the environmental groups and owners of MGS signed the consent decree discussed above. While the views of these commenters varied with regard to the need for EPA to proceed with a rulemaking given the agreement to install pollution controls, all agreed that any EPA rulemaking and/or requirements for pollution controls at the power plant should be consistent with the requirements of the consent decree. All comments that EPA received in response to the ANPR are in Docket Number A2–99–01.

E. Further Actions in Light of the Mohave Consent Decree

The NPS commented, in response to the ANPR, that MGS's compliance with the emission limitations contained in the Mohave consent decree would address the concern expressed in its 1997 letter that sulfur dioxide emissions from MGS are contributing to visibility impairment at GCNP. In its November 12, 1999 comment letter on the ANPR, the NPS stated: ''We request that EPA give strong consideration in its future rule-making action to incorporate the components of the consent decree as

appropriate as a means to address our concerns over the visibility impairment at GCNP by MGS. The NPS has reviewed the consent decree and find that the restrictions on future plant operation would address the visibility concerns raised in our certification of impairment sent to EPA on November 14, 1985 and reaffirmed on August 19, 1997.'' Considering the NPS comments, EPA believes that if the terms of the Mohave consent decree are incorporated into the long-term strategy of the Nevada Visibility FIP, then EPA need not address the issue of ''reasonable attribution'' or proceed with a BART determination. In taking this action, EPA is not making a decision with respect to whether there is sufficient information to proceed with a ''reasonable attribution'' finding or to establish a BART emission limitation. EPA is determining that such a decision is not necessary because the NPS has indicated that its concerns regarding the impact of sulfur dioxide emissions on visibility impairment at GCNP will be resolved if the terms of the Mohave consent decree are contained within the Nevada Visibility FIP.

EPA agrees that inclusion of the Mohave consent decree provisions in the Nevada Visibility FIP is an appropriate way to address the impact of sulfur dioxide emissions from MGS on visibility impairment at GCNP. EPA also believes that incorporation of the Mohave consent decree provisions into the Nevada Visibility FIP will allow for reasonable progress toward the national visibility goal and will ensure that the emission limitations and other requirements applicable to MGS are federally enforceable. (A detailed analysis of how the Mohave consent decree requirements represent reasonable progress is contained below in section II.A.4.) Thus, EPA is proposing to adopt the requirements of the Mohave consent decree into the Nevada visibility FIP. Today's action, however, does not address MGS's contribution to visibility impairment in the form of regional haze. Under EPA's regional haze regulations, the State of Nevada has the responsibility to prepare a SIP that contains a strategy for reducing emissions of air pollutants from sources that contribute to regional haze.

II. Review and Revision of Nevada Visibility FIP Long-Term Strategy

A. Long-Term Strategy Review

As part of the long-term strategy to address visibility protection, EPA is required to conduct a review of the Nevada Visibility FIP every three years to determine whether the plan is sufficient or if additional measures are necessary for visibility protection. 40 CFR 52.29(c)(4). (Because the State of Nevada does not have an approved SIP for visibility, EPA is required to assume responsibility for visibility protection until the State submits, and EPA approves, a SIP that adequately provides for visibility protection.) Pursuant to 40 CFR 52.29, EPA must include in its triennial report an assessment of: (1) The progress achieved in remedying existing impairment of visibility in any mandatory Class I Federal area; (2) the ability of the long-term strategy to prevent future impairment of visibility in any mandatory Class I Federal area; (3) any change in visibility since the last such report, or in the case of the first report, since plan approval; (4) additional measures, including the need for SIP revisions, that may be necessary to assure reasonable progress toward the national visibility goal; (5) the progress achieved in implementing best available retrofit technology (BART) and meeting other schedules set forth in the long-term strategy; (6) the impact of any exemption granted under section 51.303; and (7) the need for BART to remedy existing visibility impairment of any integral vista identified pursuant to section 51.304.

In November 1998, the Environmental Defense Fund (EDF) submitted a letter to the EPA Region IX Regional Administrator noting its concern over EPA's failure to conduct a review of the Nevada Visibility FIP. EDF noted that EPA had not updated the FIP or conducted any required reviews, even though DOI had notified EPA of visibility impairment at GCNP and submitted information indicating that such impairment is attributable to emissions from MGS. EDF further referred to studies that have been conducted (including Project MOHAVE) which EDF believes indicate that emissions from MGS contribute to visibility impairment. On April 20, 1999, EDF sent EPA notice of its intent to sue the Agency, pursuant to section 304(b)(1) of the Act, 42 U.S.C. 7604(b)(1), and 40 CFR part 54. EDF's notice of intent to sue made the same claims as contained in its November 1998 letter to EPA.

In today's notice, EPA is proposing its first report assessing the long-term visibility strategy for Nevada. This is the first report that EPA has made since promulgating the Nevada Visibility FIP. EPA is reviewing the long-term strategy only for the purpose of addressing the DOI's certification of existing visibility impairment at GCNP and MGS's contribution to that impairment and evaluating whether the terms of the Mohave consent decree will make reasonable progress toward the national visibility goal. EPA is not conducting a comprehensive review of the long-term strategy of the Nevada Visibility FIP at this time. FLMs have not provided any information and EPA is not aware of any evidence that visibility impairment at any other Class I area can be attributed to a specific source or group of sources located in Nevada. For this reason, EPA does not believe that a comprehensive review of the Nevada long-term strategy is necessary at this time.

1. The Progress Achieved in Remedying Existing Impairment of Visibility in any Mandatory Class I Federal Area

As discussed above, DOI first certified the existence of visibility impairment at GCNP in 1985. DOI subsequently stated its belief in 1997 that MGS is contributing to that impairment. Since that time, EPA has been working with DOI, including the NPS, to address these concerns. Part of that effort was the completion of the Project MOHAVE study, discussed in sections I.B.3. and II.A.4. of this action, to determine the extent to which MGS contributes to visibility impairment at GCNP. In addition, EPA published the June 17, 1999 ANPR to inform the public of the study's findings and to request the submission of any other information that EPA should consider before proceeding further. Following EPA's publication of the ANPR, the GCT, Sierra Club, NPCA and the owners of MGS began the process of negotiating a settlement of the environmental groups' lawsuit against MGS. Ultimately the parties agreed that MGS would install pollution control equipment that is expected to significantly reduce visibility impairing pollutants. While EPA was not a party to the Mohave consent decree, the Agency did provide technical consultation to the parties during their negotiations.

As discussed above, both EPA and DOI believe that implementation of the provisions of the Mohave consent decree and inclusion of such requirements in the long-term strategy of the FIP will address the concerns expressed by DOI regarding the impact of MGS's sulfur dioxide emissions on visibility impairment at GCNP. EPA also believes the level of improvement that will result from compliance with the Mohave consent decree will achieve reasonable progress toward the national visibility goal as it relates to MGS and GCNP. A detailed analysis of how the consent decree requirements will address the visibility concerns and

achieve reasonable progress is contained below in section II.A.4.

2. Ability of Long-Term Strategy To Prevent Future Impairment of Visibility in any Class I Area

In general, EPA's process for reviewing new and modified emissions sources under the Prevention of Significant Deterioration program (40 CFR 52.21) and New Source Review program (40 CFR 52.28) is designed to address future impairment of visibility in Class I areas within Nevada or affected by sources in Nevada. Because today's review of the long-term strategy concerns only MGS's contribution to existing visibility impairment at GCNP and whether the proposed controls make reasonable progress toward the national visibility goal, EPA is not formally reviewing the effect on future impairment at this time.

3. Any Change in Visibility Since Plan Approval

Today's long-term strategy review addresses only MGS' contribution to visibility impairment at GCNP and the steps that will be taken to address its contribution. This review, therefore, will not address the broader changes in visibility since promulgation of the Nevada Visibility FIP.

4. Additional Measures, Including the Need for SIP Revisions, That May Be Necessary To Assure Reasonable Progress Toward the National Visibility Goal.

EPA believes that the level of improvement that will result from implementation of the Mohave consent decree represents reasonable progress toward the national visibility goal and, therefore, that it is necessary to revise the Nevada Visibility FIP to adopt the provisions of the Mohave consent decree. In making such a determination, EPA must consider the amount of visibility improvement expected from the emissions limits. MGS currently emits over 40,000 tons of SO_2 per year. Under certain meteorological conditions, SO_2 converts to particulate sulfate in the atmosphere. It is these sulfate particles that cause light to scatter which creates hazy conditions and poor visibility. Project MOHAVE found that for the summer study period, MGS contributed between 1.7 and 3.3 percent, depending on the methodology used, of the measured sulfate concentrations at Meadview, on the western edge of GCNP. The 90th percentile estimate of MGS's contribution to sulfate, reported as 8.7 to 21 percent of total measured sulfate, can be used as an estimate of the episodic effects of MGS emissions during the summer intensive study period. Ten percent of the time, impacts higher than this range could be expected but were too uncertain to quantify. The Project MOHAVE estimates of MGS's contribution to total extinction, or total visibility impairment, are 0.3 to 0.8 percent and 1.9 to 4.0 percent for the average and 90th percentile conditions, respectively, during the summer intensive study period. Again, impacts higher than the 90th percentile range could be expected ten percent of the time. These estimates are based only on MGS's contribution to visibility impairment due to SO_2 emissions. Project MOHAVE did not examine how other emissions from the facility, such as particulate matter, NO_X or organics, may affect visibility impairment. EPA also notes that there is considerable uncertainty surrounding the quantitative estimates of the effect of pollutant emissions on visibility within the boundaries of GCNP.

Once MGS is in compliance with the final emission limits established in the Mohave consent decree, the 85% reduction in sulfur dioxide emissions should remove most of the visibility impacts noted above. During ten percent of the summer period, there will likely be a noticeable improvement. The impact of particulate matter and NO_X emissions from MGS on visibility impairment at GCNP was not estimated as part of Project MOHAVE. MGS must, however, reduce particulate matter and NO_X emissions as required by the Mohave consent decree. There may be some additional visibility benefit from reducing these emissions, though there has been no quantification of that potential benefit. EPA believes, however, that it is appropriate to adopt all of the emission limits and pollution controls required by the Mohave consent decree since they were established as part of a complete package. Therefore, EPA is proposing to include the NO_X and particulate matter control requirements in the revision to the Nevada Visibility FIP.

Pursuant to CAA section 169A(g)(1), EPA must also consider the following factors when determining reasonable progress: (1) the cost of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of the source. The following is EPA's evaluation of these factors in determining whether implementation of the terms of the Mohave consent decree constitutes reasonable progress relative to MGS and its impact on GCNP:

a. *Cost of compliance.* By signing the consent decree, the owners of the Mohave Generating Station have demonstrated their willingness to bear the costs associated with the retrofit. The owners estimate the capital cost of the MGS retrofit will be $300 million. This figure includes $220 million for installation of the lime spray dryers and integral baghouses, $20 million for installation of the low-NO_X burners, and $60 million for other site-specific modifications related to installation of the pollution control equipment. Upon examination of capital costs at other coal-fired power plants that have installed similar pollution control equipment in recent years, EPA believes the estimated costs to be reasonable. For example, in 1999, the Navajo Generating Station (NGS), a 2250 MW plant in Page, Arizona, completed installation of limestone wet scrubber technology on its three boilers. The capital cost for this retrofit was $420 million dollars or $187/kW.[3] The estimated capital cost to install lime spray dryers and baghouses at the Hayden Generating Station, a 440 MW coal-fired plant in Colorado, was $129 million, or $294/kW.[4] The $177/kW ($280 million divided by 1580 MW) estimate for installing the lime spray dryers and baghouses and other associated retrofits at MGS is less than the costs for both Hayden and NGS. In a 1991 EPA study of retrofit costs for SO_2 and NO_x control options at 200 coal-fired power plants, the 50th percentile cost for lime spray drying is estimated to be $213/kW.[5] For a plant the size of MGS, this equals a capital cost of $336 million. In calculating the 50th percentile estimate, EPA included all or part of the cost of baghouses for some of the boilers studied, so the $336 million estimate should be compared to the $280 million that Southern California Edison estimates the lime spray dryer, integral baghouses, and related retrofits will cost. Again, the estimated costs for MGS fall below the 50th percentile number. Finally, EPA used its Integrated Air Pollution Control System Costing Program to estimate a capital cost of $210 million, or $133/kW, for the lime spray dryers and baghouses. This is comparable to Southern California Edison's $220 million capital cost estimate. (The EPA program did not include the other modifications related to installation of the control equipment in its estimate. Southern California Edison estimates these modifications will cost $60 million.) EPA's cost program estimates that annual costs for the MGS retrofit will be $38 million and that the additional cost of producing power will be .63 cents/kWH annually. The model also predicts that the control strategy will cost $147/ton of particulate removed and $1297/ton of SO_2 removed. The Public Service

[3] Salt River Project web site, Navajo Generating Station page. (www.srpnet.com/power/stations/navajo.html)

[4] ''Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection, Part I: Hayden Station Requirements,'' August 15, 1996. Costs adjusted to 1999 dollars.

[5] ''Project Summary: Retrofit Costs for SO_2 and NO_x Control Options at 200 Coal-Fired Plants,'' EPA/600/S7–90–021, March, 1991. Costs adjusted to 1999 dollars.

Company of Colorado (operators of Hayden Station) estimated a cost of approximately $2000/ton SO_2 removed and $100/ton particulate matter removed (in 1996 dollars). Southern California Edison's estimated capital cost of the pollution controls required by the consent decree appear to be lower than or similar to estimates for other similar retrofit projects. In addition, the owners of MGS have voluntarily agreed to bear the cost of the retrofit. EPA concludes, therefore, that the cost of compliance with the requirements that EPA is proposing to adopt in the revised Nevada visibility FIP is reasonable.

b. *Time necessary for compliance.* The Mohave consent decree requires that MGS be in full compliance with all emission limits applicable to Unit 1 by January 1, 2006 and to Unit 2 by April 1, 2006. If a 100% sale of the facility is completed prior to December 30, 2002, the plant would be required to come into compliance even sooner (3 years and 3 months from the final sale). The parties to the consent decree agreed that the compliance deadlines allow an appropriate period of time for installation of pollution control equipment. For comparison purposes, if EPA were to make a ''reasonable attribution'' finding and BART determination, such a rulemaking would likely not be complete until early to mid-2001. CAA sections 169A(b)(2)(A) and 169A(g)(4) require that BART be installed ''as expeditiously as practicable but in no event later than five years after the date'' that EPA would complete the reasonable attribution/BART rulemaking. Under this scenario, EPA estimates that installation of control equipment and compliance with emission limits would occur by early to mid-2006, depending on when EPA finalized the rulemaking. The time frame could be longer if there were administrative and/or judicial appeals of the agency's decision. EPA believes the MGS settlement offers emissions reductions on a more rapid timetable than would likely be achievable through a possibly controversial reasonable attribution finding and BART process. Thus, EPA believes the time frame for compliance is reasonable.

c. *Energy and non-air quality environmental impacts.* There are a number of impacts associated with installation of lime spray dryers and baghouses that should be considered and evaluated, including increased energy consumption, water usage and solid waste disposal. Southern California Edison estimates, assuming an 85% generating capacity factor, that MGS will need an additional 20 MW or 150,000 MWhrs/yr to operate the control equipment. Included in the cost estimates discussed above is the capital cost for constructing a new auxiliary substation to serve the increased load created by the new control equipment. EPA believes that this additional energy consumption is reasonable given the emission reductions and improvements in visibility that will occur once the pollution controls are operational. It is also worth noting that the increased energy needs are less than would be required for a wet scrubber system. SCE estimates that such a system would use 30 MW or 225,000 MWhrs/yr. Regarding increased water usage, SCE estimates that 1400 gallons per minute, or 1900 acre-ft/yr will be required to operate the SO_2 scrubbers. This is nearly 30% less than the 1800 gallons per minute (2500 acre-ft/yr) that would be required for a wet scrubber system. Once operating, the lime spray dryers at MGS will generate 160,000 tons/year of waste. A wet scrubber system would generate 170,000 tons/year of waste. The MGS lime spray dryer waste can potentially be sold for use as fertilizer; whether that will occur depends on the distance to potential markets, transportation costs, etc. If the waste cannot be sold, it will be disposed of at an on-site waste disposal facility so there will be no impacts from shipping waste off-site. Other impacts that could affect the local community include increased truck traffic for transporting the lime and other reagents necessary for operating the scrubbers. The number of trips depends on which supplier is used. If the lime is shipped from Arizona, SCE estimates there will be 11 additional trucks/day. If a Nevada supplier is chosen, truck traffic will be increased by 7 trucks/day. This additional traffic is not expected to have a significant impact on the local community and its air quality, including the area's ability to remain in compliance with EPA's health-based National Ambient Air Quality Standards for pollutants such as particulate matter, ozone, and carbon monoxide. EPA believes that the issues discussed above will not have a significant adverse impact on the environment or the local community. EPA also believes that these impacts are reasonable in consideration of the significant emission reductions and visibility improvement that will occur as a result of the pollution control equipment.

d. *Remaining useful life of the source.* Southern California Edison estimates that MGS will continue to operate until 2025. This was the original projection for the life of the source and is largely dependent on the remaining coal reserves at the Black Mesa Mine which is the sole supplier of coal to the facility. Given that MGS will operate for 20 years beyond installation of the pollution control equipment and compliance with the emission limits, the proposed level of control is reasonable and will allow progress toward the national visibility goal over that time.

Considering the improvements in visibility that will likely occur, that the cost of compliance is similar to or lower than compliance costs for other coal-fired power plants, that the compliance deadlines are consistent with compliance time frames if EPA were to undertake a BART rulemaking, that the other environmental impacts are minimal, and that the source will operate for another 20 years beyond the compliance deadline, the requirements that EPA proposes to adopt into the Nevada Visibility FIP meet the reasonable progress requirements of the Clean Air Act.

5. Progress Achieved in Implementing BART and Meeting Other Schedules Set Forth in the Long-Term Strategy

The Nevada Visibility FIP that was promulgated in 1987 did not contain any requirements for BART or set out any schedules for compliance with emission limits or control strategies. Although Nevada has one Class I area, FLMs have not certified visibility impairment in this area. Moreover, though the FLMs had certified visibility impairment at the Grand Canyon National Park prior to promulgation of the Nevada Visibility FIP, at that time neither the FLMs nor EPA had identified any specific sources in Nevada as contributing to the impairment. No sources in Nevada were identified as potential contributors to the impairment until the August 1997 letter from DOI indicated that MGS was a likely source of visibility impairment. Today's notice proposes to address that visibility impairment by revising the long-term strategy of the Nevada Visibility FIP to incorporate emission reduction requirements and compliance deadlines for MGS.

6. The Impact of any Exemption (From BART) Granted Under Section 51.303

The long-term strategy contains no requirements for BART and therefore no exemptions from BART for any source.

7. The Need for BART To Remedy Existing Visibility Impairment of Any Integral Vista Identified Pursuant to Section 51.304

To date, FLMs have not identified integral vistas with existing visibility impairment.

B. Consultation With Federal Land Managers

Section 52.29(c)(3) of EPA's visibility FIP requires that EPA consult with the appropriate FLMs during the review and revision of the long-term strategy. Since DOI sent EPA the August 1997 letter reaffirming its certification of visibility impairment at GCNP, EPA has been working with the Department, including the National Park Service, on possible approaches for resolving the MGS's contribution to the visibility impairment. Since the Mohave consent decree was signed, EPA has consulted with DOI and NPS regarding the approach proposed in today's notice. As discussed earlier in this notice, NPS has reviewed the consent decree and believes that an EPA rulemaking which adopts the emission limits and other requirements from the decree is an appropriate means of addressing its concerns regarding the impact of SO_2

emissions from MGS on visibility impairment at GCNP.

III. Proposed Action

EPA proposes to revise the long-term strategy of the Nevada Visibility FIP to adopt the emission limits, compliance deadlines and other requirements of the consent decree between the Grand Canyon Trust, Sierra Club, National Parks and Conservation Association and the owners of the Mohave Generating Station (Southern California Edison, Nevada Power, Salt River Project, Los Angeles Department of Water and Power) as approved by the U.S. District Court of Nevada on December 15, 1999. A summary of the requirements that EPA is proposing to include in the FIP is contained below. A complete description of the requirements that EPA is proposing to adopt into the long-term strategy of the FIP is contained in the proposed amendment to 40 CFR 52.1488 at the end of this notice.

A. Emission Controls and Limitations

The owners of MGS will install and operate lime spray dryer technology on both units at the plant. This technology must provide for SO_2 reductions of at least 85% for each unit on a 90-boiler-operating-day rolling average basis. A boiler-operating-day is defined as any calendar day in which coal is combusted in the boiler of a unit for more than 12 hours. SO_2 emissions from each unit shall not exceed .150 pounds per million BTU heat input on a 365-boiler-operating-day rolling average basis. Compliance with the SO_2 limits will be determined using continuous SO_2 monitors. The first boiler-operating-day of a rolling average period for a unit shall be the first boiler-operating-day that occurs on or after the compliance date for the unit. Once the unit has operated the necessary number of days to generate an initial 90 or 365 day average, consistent with the applicable limit, each additional day the unit operates a new 90 or 365 day (''rolling'') average is generated. The owners of MGS may substitute other control technology provided that technology achieves the applicable emission limits, subject to approval by EPA.

The owners will install and operate fabric filter dust collectors (polishing baghouses), without a by-pass, on both units at MGS. Opacity of emissions shall be no more than 20.0%, averaged over each separate 6-minute period within an hour. Compliance with the opacity limit will be determined using a continuous opacity monitor. The owners are excused from meeting the opacity limit during cold startup if the failure to meet such limit was due to the breakage of one or more bags caused by condensed moisture. In addition, exceedances of the opacity limit during a malfunction will not be considered a violation if certain notification and mitigation requirements are met.

B. Emission Control Construction Deadlines

Issue binding contract to design the SO_2, opacity and NO_X control systems—3/01/03

Issue binding contract to procure SO_2, opacity and NO_X control systems—9/01/03

Commence physical, on-site construction of SO_2 and opacity equipment—4/01/04

Complete construction of SO_2, opacity and NO_X control equipment and complete tie in for first unit—7/01/05

Complete construction of SO_2, opacity and NO_X control equipment and complete tie in for second unit—12/31/05

There will be no penalty for failure to meet these deadlines if the final emission limitation compliance deadlines described in section III.C. below are met, if coal-fired units at MGS are not in operation after December 31, 2005, or if coal-fired units are not in operation after December 31, 2005 and then recommence operation in compliance with all emission controls and limitations.

C. Emission Limitation Compliance Deadlines

Unless subject to a force majeure event as described in section III.F. below, one unit at MGS must be in compliance with the SO_2 and opacity emission limitations and NO_x control requirements by January 1, 2006 and the second unit by April 1, 2006. The second unit may only be operated after December 31, 2005 if the control equipment has been installed and is in operation. The control equipment on the second unit may be taken out of service between December 31, 2005 and April 1, 2006 as necessary to assure its proper operation or compliance with the final emission limits.

If the owners' entire (*i.e.* 100%) ownership interest in MGS is sold, and the closing date of such sale occurs on or before December 30, 2002, the applicable emission limitations shall become effective for one unit three years from the date of the last closing, and for the second unit three years and three months from the date of the last closing.

D. Interim Emission Limits

Until the final emission limitation compliance deadlines discussed above in section III.D., each unit at MGS must meet an interim SO_2 emissions limit of 1.0 pounds per million BTU of heat input calculated on a 90-boiler-operating-day rolling average basis. Each unit must also meet an opacity limit of 30%, as averaged over each separate 6-minute period within an hour, with no more than 375 exceedances of 30% allowed per calendar quarter.

E. Reporting

Beginning January 1, 2001, and continuing on a biannual basis through April 1, 2006, or the date the owners of MGS demonstrate compliance with the applicable emission limits, the owners will provide to EPA a report that describes all significant events in the preceding six-month period that may impact the installation and operation of pollution control equipment, including the status of a full or partial sale of MGS. These reports will also provide all opacity readings in excess of 30% and all SO_2 90-boiler-operating-day rolling averages for each unit for the preceding two quarters.

Once the final emission limits take effect, the owners of MGS must provide quarterly reports containing compliance information related to the SO_2 and opacity emissions limitations.

F. Force Majeure Provisions

MGS may assert that noncompliance with a deadline imposed by the FIP is attributable to a force majeure event. MGS must notify EPA of the need for an extension and submit a report to EPA which describes the delay and includes a schedule with extended deadlines.

IV. Request for Public Comments

EPA is requesting comments on all aspects of the Nevada Visibility FIP long-term strategy review and proposal to revise the long-term strategy portion of the FIP. As indicated at the outset of this document, EPA will consider any comments received by August 21, 2000.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that

EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments or impose direct compliance costs on those communities. This federal action adopts into federal regulation pre-existing requirements under a court-enforceable consent decree and imposes no new requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to adopt into federal regulation the requirements from a court-enforceable consent decree, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because it does not create any new requirements but simply adopts into federal regulation existing requirements from a court-enforceable consent decree. Therefore, because the proposed FIP revision does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed FIP revision does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action adopts into federal regulation pre-existing requirements under a court-enforceable consent decree, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Sulfur oxides.

Dated: June 29, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1488 is amended by adding paragraph (d) to read as follows:

§ 52.1488 Visibility protection.

* * * * *

(d) This paragraph (d) is applicable to the Mohave Generating Station located in the Las Vegas Intrastate Air Quality Control Region (§ 81.80 of this chapter).

(1) *Definitions.—Administrator* means the Administrator of EPA or her/his designee.

Boiler-operating-day shall mean any calendar day in which coal is combusted in the boiler of a unit for more than 12 hours. If coal is combusted for more than 12 but less than 24 hours during a calendar day, the calculation of that day's sulfur dioxide (SO_2) emissions for the unit shall be based solely upon the average of hourly Continuous Emission Monitor System data collected during hours in which coal was combusted in the unit, and shall not include any time in which coal was not combusted.

Coal-fired shall mean the combustion of any coal in the boiler of any unit. If the Mohave Generating Station is converted to combust a fuel other than coal, such as natural gas, it shall not emit pollutants in greater amounts than that allowed by paragraph (d) of this section.

Current owners shall mean the owners of the Mohave Generating Station on December 15, 1999.

Owner or operator means the owner(s) or operator(s) of the Mohave Generating Station to which paragraph (d) of this section is applicable.

Rolling average shall mean an average over the specified period of boiler-operating-days, such that, at the end of the first specified period, a new daily average is generated each successive boiler-operating-day for each unit.

(2) *Emission controls and limitations.* The owner or operator shall install the following emission control equipment, and shall achieve the following air pollution emission limitations for each coal-fired unit at the Mohave Generating Station, in accordance with the deadlines set forth in paragraphs (d) (3) and (4) of this section.

(i) The owner or operator shall install and operate lime spray dryer technology on Unit 1 and Unit 2 at the Mohave Generating Station. The owner or operator shall design and construct such lime spray dryer technology to comply with the SO_2 emission limitations, including the following percentage reduction and pounds per million BTU requirements:

(A) SO_2 emissions shall be reduced at least 85% on a 90-boiler-operating-day rolling average basis. This reduction efficiency shall be calculated by comparing the total pounds of SO_2 measured at the outlet flue gas stream after the baghouse to the total pounds of SO_2 measured at the inlet flue gas stream to the lime spray dryer during the previous 90 boiler-operating-days.

(B) SO_2 emissions shall not exceed .150 pounds per million BTU heat input on a 365-boiler-operating-day rolling average basis. This average shall be calculated by dividing the total pounds of SO_2 measured at the outlet flue gas stream after the baghouse by the total heat input for the previous 365 boiler-operating-days.

(C) Compliance with the SO_2 percentage reduction emission limitation in paragraph (d)(2)(i) of this section shall be determined using continuous SO_2 monitor data taken from the inlet flue gas stream to the lime spray dryer compared to continuous SO_2 monitor data taken from the outlet flue gas stream after the baghouse for each unit separately. Compliance with the pounds per million BTU limit shall be determined using continuous SO_2 monitor data taken from the outlet flue gas stream after each baghouse. The continuous SO_2 monitoring system shall comply with all applicable law (*e.g.,* 40 CFR part 75). The inlet SO_2 monitor shall also comply with the quality assurance-quality control procedures in 40 CFR part 75, Appendix B.

(D) For purposes of calculating rolling averages, the first boiler-operating-day of a rolling average period for a unit shall be the first boiler-operating-day that occurs on or after the specified compliance date for that unit. Once the unit has operated the necessary number of days to generate an initial 90 or 365 day average, consistent with the applicable limit, each additional day the unit operates a new 90 or 365 day (''rolling'') average is generated. Thus, after the first 90 boiler-operating-days from the compliance date, the owner or operator must be in compliance with the 85 percent sulfur removal limit based on a 90-boiler-operating-day rolling average each subsequent boiler-operating-day. Likewise, after the first 365 boiler-operating-days from the compliance date, the owner or operator must be in compliance with the .150 sulfur limit based on a 365-boiler-operating-day rolling average each subsequent boiler-operating-day.

(E) Nothing in this paragraph (d) shall prohibit the owner or operator from substituting equivalent or superior control technology, provided such technology meets applicable emission limitations and schedules, upon approval by the Administrator.

(ii) The owner or operator shall install and operate fabric filter dust collectors (also known as FFDCs or baghouses), without a by-pass, on Unit 1 and Unit 2 at the Mohave Generating Station. The owner or operator shall design and construct such FFDC technology (together with or without the existing electrostatic precipitators) to comply with the following emission limitations:

(A) The opacity of emissions shall be no more than 20.0 percent, as averaged over each separate 6-minute period within an hour, beginning each hour on the hour, measured at the stack.

(B) In the event emissions from the Mohave Generating Station exceed the opacity limitation set forth in paragraph (d) of this section, the owner or operator shall not be considered in violation of this paragraph if they submit to the Administrator a written demonstration within 15 days of the event that shows the excess emissions were caused by a malfunction (a sudden and unavoidable breakdown of process or control equipment), and also shows in writing within 15 days of the event or immediately after correcting the malfunction if such correction takes longer than 15 days:

(1) To the maximum extent practicable, the air pollution control equipment, process equipment, or processes were maintained and operated in a manner consistent with good practices for minimizing emissions;

(2) Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations would be exceeded or were being exceeded. Individuals working off-shift or overtime were utilized, to the maximum extent practicable, to ensure that such repairs were made as expeditiously as possible;

(3) The amount and duration of excess emissions were minimized to the maximum extent practicable during periods of such emissions;

(4) All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality; and

(5) The excess emissions are not part of a recurring pattern indicative of

inadequate design, operation, or maintenance.

(C) Notwithstanding paragraphs (d)(2)(ii) (A) and (B) of this section the owner or operator shall be excused from meeting the opacity limitation during cold startup (defined as the startup of any unit and associated FFDC system after a period of greater than 48 hours of complete shutdown of that unit and associated FFDC system) if they demonstrate that the failure to meet such limit was due to the breakage of one or more bags caused by condensed moisture.

(D) Compliance with the opacity emission limitation shall be determined using a continuous opacity monitor installed, calibrated, maintained and operated consistent with applicable law (*e.g.,* 40 CFR part 60).

(iii) The owner or operator shall install and operate low-NO_X burners and overfire air on Unit 1 and Unit 2 at the Mohave Generating Station.

(3) *Emission control construction deadlines.* The owner or operator shall meet the following deadlines for design and construction of the emission control equipment required by paragraph (d)(2) of this section. These deadlines and the design and construction deadlines set forth in paragraph (d)(4)(iii) of this section are not applicable if the emission limitation compliance deadlines of paragraph (d)(4) of this section are nonetheless met; or coal-fired units at the Mohave Generating Station are not in operation after December 31, 2005; or coal-fired units at the Mohave Generating Station are not in operation after December 31, 2005 and thereafter recommence operation in accordance with the emission controls and limitations obligations of paragraph (d)(2) of this section.

(i) Issue a binding contract to design the SO_2, opacity and NO_X control systems for Unit 1 and Unit 2 by March 1, 2003.

(ii) Issue a binding contract to procure the SO_2, opacity and NO_X control systems for Unit 1 and Unit 2 by September 1, 2003.

(iii) Commence physical, on-site construction of SO_2 and opacity equipment for Unit 1 and Unit 2 by April 1, 2004.

(iv) Complete construction of SO_2, opacity and NO_X control equipment and complete tie in for first unit by July 1, 2005.

(v) Complete construction of SO_2, opacity and NO_X control equipment and complete tie in for second unit by December 31, 2005.

(4) *Emission limitation compliance deadlines.* (i) The owner's or operator's obligation to meet the SO_2 and opacity emission limitations and NO_X control obligations set forth in paragraph (d)(2) of this section shall commence on the following dates, unless subject to a force majeure event as provided for in paragraph (d)(7) of this section:

(A) For one unit, January 1, 2006; and

(B) For the other unit, April 1, 2006.

(ii) The unit that is to meet the emission limitations by April 1, 2006 may only be operated after December 31, 2005 if the control equipment set forth in paragraph (d) (2) of this section has been installed on that unit and the equipment is in operation. However, the control equipment may be taken out of service for one or more periods of time between December 31, 2005 and April 1, 2006 as necessary to assure its proper operation or compliance with the final emission limits.

(iii) If the current owners' entire (*i.e.,* 100%) ownership interest in the Mohave Generating Station is sold either contemporaneously, or separately to the same person or entity or group of persons or entities acting in concert, and the closing date or dates of such sale occurs on or before December 30, 2002, then the emission limitations set forth in paragraph (d)(2) of this section shall become effective for one unit three years from the date of the last closing, and for the other unit three years and three months from the date of the last closing. With respect to interim construction deadlines, the owner or operator shall issue a binding contract to design the SO_2, opacity and NO_X control systems within six months of the last closing, issue a binding contract to procure such systems within 12 months of such closing, commence physical, on-site construction of SO_2 and opacity control equipment within 19 months of such closing, and complete installation and tie-in of such control systems for the first unit within 36 months of the last closing and for the second unit within 39 months of the last closing.

(5) *Interim emission limits.* For the period of time between [the effective date of paragraph (d) of this section] and the date on which each unit must commence compliance with the final emission limitations set forth in paragraph (d)(2) of this section (''interim period''), the following SO_2 and opacity emission limits shall apply:

(i) SO_2: SO_2 emissions shall not exceed 1.0 pounds per million BTU of heat input calculated on a 90-boiler-operating-day rolling average basis for each unit;

(ii) Opacity: The opacity of emissions shall be no more than 30 percent, as averaged over each separate 6-minute period within an hour, beginning each hour on the hour, measured at the stack, with no more than 375 exceedances of 30 percent allowed per calendar quarter (including any pro rated portion thereof), regardless of reason. If the total number of excess opacity readings from [the effective date of paragraph (d) of this section] to the time the owner or operator demonstrates compliance with the final opacity limit in paragraph (d)(2) of this section, divided by the total number of quarters in the interim period (with a partial quarter included as a fraction), is equal to or less than 375, the owner or operator shall be in compliance with this interim limit.

(6) *Reporting.* (i) Commencing on January 1, 2001, and continuing on a bi-annual basis through April 1, 2006, or such earlier time as the owner or operator demonstrates compliance with the final emission limits set forth in paragraph (d)(2) of this section, the owner or operator shall provide to the Administrator a report that describes all significant events in the preceding six month period that may or will impact the installation and operation of pollution control equipment described in this paragraph, including the status of a full or partial sale of the Mohave Generating Station based upon non-confidential information. The owner's or operator's bi-annual reports shall also set forth for the immediately preceding two quarters: All opacity readings in excess of 30 percent, and all SO_2 90-boiler-operating-day rolling averages in BTUs for each unit for the preceding two quarters.

(ii) Within 30 days after [the end of the first calendar quarter for which the emission limitations in paragraph (d)(2) of this section first take effect], but in no event later than April 30, 2006, the owner or operator shall provide to the Administrator on a quarterly basis the following information:

(A) The percent SO_2 emission reduction achieved at each unit during each 90-boiler-operating-day rolling average for each boiler-operating-day in the prior quarter. This report shall also include a list of the days and hours excluded for any reason from the determination of the owner's or operator's compliance with the SO_2 removal requirement.

(B) All opacity readings in excess of 20.0 percent, and a statement of the cause of each excess opacity reading and any documentation with respect to any claimed malfunction or bag breakage.

(C) Each unit's 365-boiler-operating-day rolling average for each boiler-operating-day in the prior quarter following [the first full 365 boiler-operating-days after the .150 pound SO_2

limit in paragraph (d)(2) of this section takes effect].

(7) *Force majeure provisions.* (i) For the purpose of this paragraph, a ''force majeure event'' is defined as any event arising from causes wholly beyond the control of the owner or operator or any entity controlled by the owner or operator (including, without limitation, the owner's or operator's contractors and subcontractors, and any entity in active participation or concert with the owner or operator with respect to the obligations to be undertaken by the owner or operator pursuant to this paragraph), that delays or prevents or can reasonably be anticipated to delay or prevent compliance with the deadlines in paragraphs (d)(3) and (4) of this section, despite the owner's or operator's best efforts to meet such deadlines. The requirement that the owner or operator exercise ''best efforts'' to meet the deadline includes using best efforts to avoid any force majeure event before it occurs, and to use best efforts to mitigate the effects of any force majeure event as it is occurring, and after it has occurred, such that any delay is minimized to the greatest extent possible.

(ii) Without limitation, unanticipated or increased costs or changed financial circumstances shall not constitute a force majeure event. The absence of any administrative, regulatory, or legislative approval shall not constitute a force majeure event, unless the owner or operator demonstrates that, as appropriate to the approval: they made timely and complete applications for such approval(s) to meet the deadlines set forth in paragraph (d)(3) of this section or paragraph (d)(4) of this section; they complied with all requirements to obtain such approval(s); they diligently sought such approval; they diligently and timely responded to all requests for additional information; and without such approval, the owner or operator will be required to act in violation of law to meet one or more of the deadlines in paragraph (d)(3) of this section or paragraph (d)(4) of this section.

(iii) If any event occurs which causes or may cause a delay by the owner or operator in meeting any deadline in paragraphs (d)(3) or (4) of this section and the owner or operator seeks to assert the event is a force majeure event, the owner or operator shall notify the Administrator in writing within 30 days of the time the owner or operator first knew that the event is likely to cause a delay (but in no event later than the deadline itself). The owner or operator shall be deemed to have notice of any circumstance of which their contractors or subcontractors had notice, provided that those contractors or subcontractors were retained by the owner or operator to implement, in whole or in part, the requirements of paragraph (d) of this section. Within 30 days of such notice, the owner or operator shall provide in writing to the Administrator a report containing: an explanation and description of the reasons for the delay; the anticipated length of the delay; a description of the activity(ies) that will be delayed; all actions taken and to be taken to prevent or minimize the delay; a timetable by which those measures will be implemented; and a schedule that fully describes when the owner or operator proposes to meet any deadlines in paragraph (d) of this section which have been or will be affected by the claimed force majeure event. The owner or operator shall include with any notice their rationale and all available documentation supporting their claim that the delay was or will be attributable to a force majeure event.

(iv) If the Administrator agrees that the delay has been or will be caused by a force majeure event, the Administrator and the owner or operator shall stipulate to an extension of the deadline for the affected activity(ies) as is necessary to complete the activity(ies). The Administrator shall take into consideration, in establishing any new deadline(s), evidence presented by the owner or operator relating to weather, outage schedules and remobilization requirements.

(v) If the Administrator does not agree in her sole discretion that the delay or anticipated delay has been or will be caused by a force majeure event, she will notify the owner or operator in writing of this decision within 20 days after receiving the owner's or operator's report alleging a force majeure event. If the owner or operator nevertheless seeks to demonstrate a force majeure event, the matter shall be resolved by the Court.

(vi) At all times, the owner or operator shall have the burden of proving that any delay was caused by a force majeure event (including proving that the owner or operator had given proper notice and had made ''best efforts'' to avoid and/or mitigate such event), and of proving the duration and extent of any delay(s) attributable to such event.

(vii) Failure by the owner or operator to fulfill in any way the notification and reporting requirements of this section shall constitute a waiver of any claim of a force majeure event as to which proper notice and/or reporting was not provided.

(viii) Any extension of one deadline based on a particular incident does not necessarily constitute an extension of any subsequent deadline(s) unless directed by the Administrator. No force majeure event caused by the absence of any administrative, regulatory, or legislative approval shall allow the Mohave Generating Station to operate after December 31, 2005, without installation and operation of the control equipment described in paragraph (d)(2) of this section.

(ix) If the owner or operator fails to perform an activity by a deadline in paragraphs (d)(3) or (4) of this section due to a force majeure event, the owner or operator may only be excused from performing that activity or activities for that period of time excused by the force majeure event.

[FR Doc. 00–17875 Filed 7–19–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6734–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Publicker Industries Superfund Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Publicker Industries Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that the remedial action for the site has been successfully executed.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before August 21, 2000.

ADDRESSES: Comments may be mailed to: Kristine Matzko (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103.

Comprehensive information, including the deletion docket, on this Site is available for viewing at the Site information repository at the following location: Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, 215–814–5254.

FOR FURTHER INFORMATION CONTACT: Kristine Matzko (3HS21), Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103. Telephone 215–814–5719, e-mail address, matzko.kristine@epa.gov

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The U.S. Environmental Protection Agency, Region III announces its intent to delete the Publicker Industries Superfund Site located in Philadelphia, Pennsylvania, from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), 40 CFR part 300, and requests public comments on this proposed action. EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that future conditions at the site warrant such action.

EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that remedial activities conducted at the Site have been successfully executed.

EPA will accept comments on the proposal to delete this Site for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Publicker Industries Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP established the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) The responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate. Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a review of the site at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment.

In the case of this Site, the selected remedy is protective of human health and the environment so long as the property is used only for industrial purposes. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site:

(i) EPA Region III has recommended deletion and has prepared the relevant documents. All appropriate responses under CERCLA have been implemented as documented in the Final Close-Out Report dated March 19, 2000.

(ii) PADEP has concurred with the deletion decision in a letter dated June 13, 2000. Concurrent with this Notice of Intent to Delete, an advertisement in a local paper presents information on the Site and announces the commencement of the thirty (30) day public comment period on the deletion package.

(iii) The EPA Regional Office has made all relevant documents supporting the proposed deletion available for the public to review in the EPA Regional Office.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the EPA Region III Regional Administrator places a final notice, a Notice of Deletion, in the **Federal Register**. Generally, the NPL will reflect deletions in the final update. Public notices and copies of the Responsiveness Summary will be made available to the public by the EPA Regional Office.

IV. Basis for Intended Site Deletion

The following summary provides the EPA's rationale for the proposal to delete this Site from the NPL.

Site Background and History

The Publicker Industries Superfund Site (the Site) is located in southeastern Philadelphia, Pennsylvania. The Site is bordered to the east by the Delaware River, to the north by the Ashland Chemical Company, to the south by the Packer Marine Terminal and New Orleans Cold Storage, and to the west by Christopher Columbus Boulevard (formerly Delaware Avenue). The Site is adjacent to, and partially under the Walt Whitman Bridge, which spans the Delaware River from Pennsylvania to New Jersey. The Site covers approximately 42 acres.

From 1912 to early 1986, Publicker Industries, Incorporated, owned and operated a liquor and industrial alcohol manufacturing plant. The Publicker Plant (Plant) fermented potatoes, molasses, corn and other grains to form various kinds of alcohols. The alcohols were used in numerous products, including whiskey, solvents, cleansers, antifreeze, and rubbing alcohol. Petroleum products and chemicals were also stored at the Plant during the late 1970's and early 1980's.

Plant operations were discontinued in February 1986 and, later that year, Publicker Industries sold the property to the Overland Corporation. Overland Corporation declared bankruptcy and abandoned the site in November 1986.

The Site initially included numerous large tanks, production buildings/warehouses, and an estimated several hundred miles of above-ground process lines. Many of the process lines were wrapped with asbestos insulation. The

majority of the existing structures had deteriorated due to weather, fire, neglect, and vandalism.

Superfund Response Activities

Large amounts of hazardous wastes and materials were discovered at the Site following an extensive fire in June 1987. During subsequent investigations, EPA determined that the conditions on Site posed an imminent threat to human health and environment. Consequently, EPA completed several emergency actions from December 1987 to December 1988. These actions included the stabilization of structures, characterization of the contents of drums and tanks, bulking and securing of over 850,000 gallons of numerous waste streams, off-site disposal of laboratory containers, and removal of liquids from above-grade process lines.

In May 1989, the Site scored 59.99 on the Hazard Ranking System, and was added to the National Priorities List in October 1989.

EPA began the Remedial Investigation/Feasibility Study (RI/FS) activities in November 1989. In January 1995, EPA finalized the RI/FS.

The Site was divided into three operable units. Below is a summary of each operable unit and the remedial actions: Operable Unit #1 Site Stabilization, Operable Unit #2 Asbestos Remediation, Operable Unit #3 Soil and Ground Water.

In June 1989, the first Record of Decision (ROD) for the Site was issued. The ROD addressed Site Stabilization. The remedial actions detailed in the ROD consisted of transportation and off-site disposal of known waste streams, draining and demolition of above-grade process lines, and transportation and off-site disposal of wastes discovered in above-grade process lines. During this remediation, asbestos-containing materials were encountered on the process lines. This asbestos-containing material was bagged and stored on-site. Remedial activities began in October 1989 and were completed in December 1990.

Many of the above-grade process lines were wrapped with asbestos insulation. As a result of Operable Unit #1 remediation, asbestos-containing materials remained on-site in bags as well as on pipes. The asbestos was investigated in the early spring of 1991. A Focused Feasibility Study (FFS) was completed in the spring of 1991 and EPA subsequently issued a ROD for Operable Unit #2 on June 28, 1991. The remedy included: the removal of remaining asbestos from piping staged throughout the Site; placement in secure packaging (plastic bags); and staging and preparation for transport and disposal; the collection of asbestos previously packaged and staged at the Site; repackaging it, if necessary; and preparation for transport and disposal; and transportation of asbestos to a permitted off-site disposal facility.

An initial remedial design was developed in September 1991; however, a site fire in April 1992 delayed remedial action until February 21, 1995. The Site was divided into five work areas. The asbestos-containing material was removed using three methodologies: gross removal, glove bag, and remote containment. The material was then packaged and transported to off-site disposal facilities. The remedial action was completed on May 19, 1995. A total of 199.87 tons of asbestos-containing materials were disposed during the remedial action.

EPA used the Superfund Trust Fund to pay for the site cleanup costs for Operable Unit #1 and Operable Unit #2. Operable Unit #3 was remediated by the current site owner after negotiating a Prospective Purchaser Agreement (PPA) with EPA.

In December 1994, EPA and the PADEP, finalized a Prospective Purchaser Agreement (PPA) for the Site. The primary purpose of the PPA was to settle and resolve the potential liability of the Delaware Avenue Enterprises, Incorporated (DAE), Cresmont Limited Partnership, and Holt Cargo Systems Incorporated (collectively referred to as the Parties).

In exchange for covenants not to sue, the Parties agreed to pay EPA and PADEP a total of $2.3 million. Additionally, the PPA stated that the Parties may petition EPA to be allowed to perform all or a discrete portion of the CERCLA response selected in the ROD for Operable Unit #3. The agreed-upon value of such work may offset any balance of payments still outstanding to EPA and/or PADEP under this PPA. In January 1996, DAE petitioned to do the remedial work. An amendment to the PPA was signed on December 19, 1996 allowing DAE to implement the remedy.

The third and final ROD for the Site was signed on December 28, 1995. Before beginning the remedial work, the Remedial Action Work Plan (RAWP) was approved by EPA on July 17, 1997. DAE's contractor proceeded on August 6, 1997; mobilization took place on August 7, 1997; and construction activities started on August 11, 1997.

The selected remedy involved: abandoning on-site groundwater wells; removal, treatment, and off-site disposal of liquids and sediments in contaminated electric utilities; removal, treatment, and off-site disposal of liquids and sediments in contaminated storm water trenches and utilities; and removal, treatment and off-site disposal of miscellaneous wastes.

The ROD required that if excavation should occur on-site in the future, that monitoring will be conducted to ensure worker safety. A deed notice has been filed which notifies future owners of the listing of the Site on the National Priorities List, the releases of hazardous substances, and the existence of RODs for the Site. Furthermore, the deed notice alerts future owners that they ''shall not put the Site to any use which could disturb or be inconsistent with the remedial response action implemented at the Site.''

EPA and PADEP conducted several inspections during the remediation of Operable Unit #3. These inspections included: an inspection of the abandoned wells on September 5, 1997; an inspection of the stormsewers on October 10, 1997; an inspection of the electric utilities on December 2 and 9, 1997; an inspection of the stormwater trenches on December 2, 1997; and finally an inspection of the additional storm water lines on January 13 and 16, 1998. The remedial activities were performed according to design specifications set forth in the Remedial Action Work Plan.

EPA issued a Preliminary close Out Report on December 2, 1997 which documented the completion of construction activities., Remedial actions were completed on May 11, 1998. DAE submitted a Final Report on Operable Unit #3 dated June 1998 which described the remedial activities. A follow-up site-visit and interview was held on September 8, 1999 as part of the review of the Final Report and as part of the five year review. An addendum to the Final Report was later submitted to EPA, and EPA accepted the final report on September 29, 1999.

None of the Operable Units require operation and maintenance or post-remedial action monitoring. Neither the OU#1 nor the OU#2 ROD remedies required Operation and Maintenance or post-remedial action monitoring. Originally, for Operable Unit #3 the stormwater outfalls were to be monitored to assess if the Delaware River was receiving any contamination. However, the stormwater outfalls and connections to the city sewer were sealed to eliminate the need to monitor the outfalls.

Five Year Reviews

EPA conducted two five year reviews of the Site. The first five year review was completed in October 1996 and the second review was completed in

February 2000. During the first five year review, the remedy for Operable Unbite #3 had not yet been completed and, therefore, the five year review concluded that the remedy for the entire Site was not protective. The second five year review concluded that the remedies are protective of the environment and human health for non-residential uses and that further reviews need to continue.

Final Close-Out Report

EPA issued a Final Close Out Report (FCOR) on March 19, 2000 that documented the completion of all construction activities for the Publicker Industries Superfund Site. As part of the FCOR, EPA and PADEP conducted a site visit on September 8, 1999. The site visit and review information concluded that all the remedial actions have been successfully executed.

Applicable Deletion Criteria

EPA is proposing deletion of this Site from the NPL. In a letter dated June 13, 2000 PADEP concurred with EPA that all appropriate responses under CERCLA have been implemented. Documents supporting this action are available from the docket. EPA believes that the criteria state in section II(i) and (ii) for deletion of this Site have been met. Therefore, EPA is proposing the deletion of the Publicker Industries Superfund Site from the NPL.

Dated: June 21, 2000.

Bradley M. Campbell,

Regional Administrator, Region III.

[FR Doc. 00–17752 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1472; MM Docket No. 99–314; RM–9754]

Radio Broadcasting Services; Metropolis IL and Paducah, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: Sun Media, Inc. requested the reallotment of Channel 252C1 from Metropolis, Illinois to Paducah, Kentucky, and the modification of Station WRIK–FM's construction permit accordingly. *See* 64 FR 59728, November 3, 1999. The petitioner's rule making proposal was denied because the difference in population between the two communities did not justify removing the third local transmission service from the smaller community of Metropolis to provide the larger community of Paducah with its sixth local transmission service.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–314, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18295 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–1437; MM Docket No. 99–223; RM–9604]

Radio Broadcasting Services; Leeds, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, denial.

SUMMARY: This document denies a petition for rule making filed by Mountain West Broadcasting requesting the allotment of Channel 287C2 at Leeds, Utah. *See* 64 FR 34751, June 29, 1999. Based on the information submitted by Mountain West Broadcasting, we believe it has failed to establish that Leeds qualifies as a community for allotment purposes and therefore it would not serve the public interest to allot a channel to Leeds.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–223, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857-3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18296 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–1438; MM Docket No. 99–227; RM–9634]

Radio Broadcasting Services; Trego, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, denial.

SUMMARY: This document denies a petition for rule making filed by the Battani Corporation requesting the allotment of Channel 296C2 at Trego, Montana. *See* 64 FR 34754, June 29, 1999. Based on the information submitted by the Battani Corporation, we believe it has failed to establish that Trego qualifies as a community for allotment purposes and therefore it would not serve the public interest to allot a channel to Trego.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–227, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18297 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1480; MM Docket No. 00–120; RM–9902]

Radio Broadcasting Services; Meeker and Craig, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Western Slope Communications, L.L.C., permittee of Station KAYW, Channel 251C, Meeker, Colorado, requesting the reallotment of Channel 251C to Craig, Colorado, and modification of its authorization accordingly, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. Petitioner is requested to provide additional information to support a claim of proposed service to an unserved area at Craig. Coordinates used for this proposal are 40–20–35 NL and 108–04–56 WL.

DATES: Comments must be filed on or before August 21, 2000, and reply comments on or before September 5, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Tom W. Davidson and Michael K. Hamra, Esqs., Akin, Gump, Strauss, Hauer & Feld, L.L.P., 1333 New Hampshire Avenue, NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–120, adopted June 21, 2000, and released June 30, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–18330 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register
Vol. 65, No. 140
Thursday, July 20, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 00–072–2]

Declaration of Emergency Because of an Atypical Transmissible Spongiform Encephalopathy (Prion Disease) of Foreign Origin

A transmissible spongiform encephalopathy (TSE) (prion disease) of foreign origin has been detected in the United States. It is different from TSE's previously diagnosed in the United States. The TSE was detected in the progeny of imported sheep. The imported sheep and their progeny are under quarantine in Vermont.

Transmissible spongiform encephalopathies are degenerative fatal diseases that can affect livestock. TSE's are caused by similar, as yet uncharacterized, agents that usually produce spongiform changes in the brain.

Post-mortem analysis has indicated positive results for an atypical TSE of foreign origin in four sheep in Vermont. Because of the potentially serious consequences of allowing the disease to spread to other livestock in the United States, it is necessary to seize and dispose of those flocks of sheep in Vermont that are affected with or exposed to the disease, and their germ plasm.

The existence of the atypical TSE of foreign origin represents a threat to U.S. livestock. It constitutes a real danger to the national economy and a potential serious burden on interstate and foreign commerce.

APHIS has insufficient funds to carry out the seizure and disposal of animals and germ plasm necessary to eliminate this disease risk. These funds would be used to compensate the owners of the animals and germ plasm for their seizure and disposal in accordance with 21 U.S.C. 134a.

Therefore, in accordance with the provisions of the Act of September 25, 1981, as amended (7 U.S.C. 147b), I declare that there is an emergency that threatens the livestock industry of this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to agencies or corporations of the United States Department of Agriculture to seize and dispose of animals that are affected with or exposed to this TSE, and their germplasm, in accordance with 21 U.S.C. 134a.

Dated: This declaration of emergency shall become effective July 14, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00–18368 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 00–072–1]

Declaration of Extraordinary Emergency Because of an Atypical Transmissible Spongiform Encephalopathy (Prion Disease) of Foreign Origin

A transmissible spongiform encephalopathy (TSE) (prion disease) of foreign origin has been detected in the United States. It is different from TSE's previously diagnosed in the United States. The TSE was detected in the progeny of imported sheep. The imported sheep and their progeny are under quarantine in Vermont.

Transmissible spongiform encephalopathies are degenerative fatal diseases that can affect livestock. TSE's are caused by similar, as yet uncharacterized, agents that usually produce spongiform changes in the brain.

Post-mortem analysis has indicated positive results for an atypical TSE of foreign origin in four sheep in Vermont. Because of the potentially serious consequences of allowing the disease to spread to other livestock in the United States, it is necessary to seize and dispose of those flocks of sheep in Vermont that are affected with or exposed to the disease, and their germ plasm.

The existence of the atypical TSE of foreign origin represents a threat to U.S. livestock. It constitutes a real danger to the national economy and a potential serious burden on interstate and foreign commerce. The Department has reviewed the measures being taken by Vermont to quarantine and regulate the flocks in question and has consulted with appropriate officials in the State of Vermont. Based on such review and consultation, the Department has determined that Vermont does not have the funds to compensate flock owners for the seizure and disposal of flocks affected with or exposed to the disease, and their germ plasm. Without such funds, it will be unlikely to achieve expeditious disposal of the flocks and germ plasm. Therefore, the Department has determined that an extraordinary emergency exists because of the existence of the atypical TSE in Vermont.

This declaration of extraordinary emergency authorizes the Secretary to seize, quarantine, and dispose of, in such manner as he deems necessary, any animals that he finds are affected with or exposed to the disease in question, and their germ plasm, and otherwise to carry out the provisions and purposes of the Act of July 2, 1962 (21 U.S.C. 134–134h). The State of Vermont has been informed of these facts.

Dated: This declaration of extraordinary emergency shall become effective July 14, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00–18367 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. DA–00–05]

United States Standards for Grades of Swiss Cheese, Emmentaler Cheese

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting comments on proposals to change the voluntary United States Standards for

Grades of Swiss Cheese, Emmentaler Cheese. AMS is proposing changes that would: (1) Increase the allowable eye size range in Grade A Swiss cheese and define an allowable eye size range for Grade B Swiss cheese; (2) remove the block height recommendation for cheeses produced in rindless blocks; (3) add more clarity to the color requirements for Grades A and B Swiss cheese; (4) correct minor errors that currently exist in the tables; and (5) make minor editorial changes that will make the standard more uniform in appearance and easier to use. These changes are being proposed to strengthen the standard by providing Swiss cheese characteristics that incorporate changes in consumer preferences and facilitate the use of automated portioning and packaging equipment. Editorial changes are also proposed to provide consistency with other dairy product standards.

DATES: Comments must be submitted on or before September 18, 2000.

ADDRESSES: Written comments may be submitted to Duane R. Spomer, Chief, Dairy Standardization Branch, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2746, South Building, Stop 0230, P.O. Box 96456, Washington, DC 20090–6456; faxed to (202) 720–2643; or e-mailed to *Duane.Spomer@usda.gov.*

Comments should reference the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours.

The current United States Standards, along with proposed changes, are available either through the above addresses or by accessing AMS'' Home Page on the Internet at *www.ams.usda.gov/dairystand.htm.*

FOR FURTHER INFORMATION CONTACT: Charlsia Fortner, Dairy Products Marketing Specialist, Dairy Standardization Branch, AMS/USDA/ Dairy Programs, Room 2746-S, P.O. Box 96956, Washington, DC, 20090–6456, (202) 720–7473.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture ''to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and will make copies of official standards available upon request. The United States Standards for Grades of Swiss Cheese, Emmentaler Cheese no longer appear in the Code of Federal Regulations but are maintained by USDA/AMS/Dairy Programs.

When Swiss cheese is officially graded, the USDA voluntary standards governing the grading of manufactured or processed dairy products are used. The Agency believes this proposal would accurately identify quality characteristics in Swiss cheese. AMS is proposing to change the United States Standards for Grades of Swiss Cheese, Emmentaler Cheese using the procedures that appear in part 36 of title 7 of the Code of Federal Regulations (7 CFR part 36).

The grade standards were last revised in September 1987. AMS has reviewed this standard and discussed possible changes with the dairy industry. The Wisconsin Dairy Products Association and the Wisconsin Cheese Makers Association, trade associations representing the Swiss cheese industry, provided specific recommendations.

Proposed by the Wisconsin Dairy Products Association and the Wisconsin Cheese Makers Association

The Wisconsin Dairy Products Association and the Wisconsin Cheese Maker's Association recommend changes to:

- Allow smaller eyes in Grade A Swiss cheese; and
- Remove block size recommendations for rindless Swiss cheese.

Proposed by Dairy Programs, Agricultural Marketing Service

- Lower the minimum eye size requirement for Grade A Swiss cheese as recommended by the Wisconsin Dairy Products Association and the Wisconsin Cheese Makers Association and include provisions to clarify uniformity of eye size. Also, Dairy Programs proposes to include the same eye size range for Grade B Swiss cheese;
- Remove the block height recommendation for rindless Swiss cheese as recommended by the Wisconsin Dairy Products Association and the Wisconsin Cheese Makers Association;
- Add a more descriptive representation of acceptable color for Grades A and B Swiss cheese by defining the range of acceptable color as white to light yellow;
- Correct errors in the table that summarizes eye and texture characteristics of Swiss cheese; and
- Reformat information in these standards to make the standards easier to use and provide a uniform appearance with other U.S. Grade Standards.

The Wisconsin Dairy Products Association and the Wisconsin Cheese Maker's Association have requested that the USDA revise Federal Swiss cheese grade standards to allow a smaller eye size and to remove cheese block size recommendations. Individuals representing a number of Swiss cheese manufacturers and buyers have also expressed strong support of these changes. Their suggested revisions, along with others identified by AMS, would increase the flexibility of the standard for use in satisfying consumer demands and promote consistency among USDA dairy product grade standards.

The current eye size requirement for Grade A Swiss cheese specifies that a majority of the eyes shall be between 11/16 and 13/16 of an inch in diameter. This is a very narrow range. While cheese makers are able to produce cheese with eyes in this range, the resulting product does not perform well on modern slicing equipment, and consumer preference points toward a smaller eye than the lower limit of 11/16 of an inch. The trade associations have suggested revising the lower limit of this eye size allowance to 3/8 of an inch. The Department agrees that this revision would result in Swiss cheese grade standards that more accurately reflect current marketing practices. The Department feels that uniformity of eye size is a measure of quality in Swiss cheese and therefore proposes to recognize the significance of uniformity of eye sizes within this larger range for Grade A Swiss cheese.

There are currently no eye size requirements for Grade B Swiss cheese under the established grading procedures. Eye size requirements for Grade B Swiss cheese do appear in the alternate grading procedures which are included as supplemental information to the standards. With the proposed expansion of the eye size range for Grade A Swiss, consideration of the eye size requirements for Grade B Swiss is appropriate. The Department feels that the larger range proposed for Grade A Swiss cheese should be relevant to Grade B Swiss as well. It is proposed that the same eye size requirements be included in standards for Grade B Swiss under all grading procedures; however, the additional provisions for uniformity of eye size would not be included in the Grade B requirements. The inclusion of the eye size range in the Grade B requirements would require 51 percent of the eyes of a Grade B Swiss cheese to fall within the range of 3/8 to 13/16 of

an inch, with no further consideration as to uniformity.

The current standards recommend a block height for rindless blocks of Grades A and B Swiss cheese of between 6½ and 8½ inches. Swiss cheese manufacturers and buyers indicate that a need no longer exists for this block height requirement. Technology exists to make a high quality rindless Swiss cheese in a variety of block sizes, and they feel that the standard should not restrict the block sizes available. USDA agrees that the block height requirement for rindless Swiss cheese is no longer necessary, and proposes to remove it from these grade standards.

Additional color descriptors are proposed for Grades A and B Swiss cheese to provide greater clarity to those utilizing these grade standards. Swiss cheese color is largely dependent on the milk from which it is produced, more so than many other cheeses. Additionally, bleaching of milk for Swiss cheese manufacturing is allowed under the Food and Drug Administration's standards of identity for Swiss cheese (21 CFR 133.195). Current Grade A standards require Swiss cheese to present a natural, attractive and uniform color. USDA proposes to add a more descriptive representation of acceptable color by defining the range of acceptable color as white to light yellow. These color descriptors are proposed in an effort to provide consistent interpretation of the terms ''natural'' and ''attractive'' by users of these grade standards.

Five tables appear in these standards to provide an easy reference for Swiss cheese characteristics and their acceptable levels at each grade. One of these tables, ''Classification of Eyes and Texture,'' contains classification information that is not supported in the text of the standard. USDA proposes revisions to the ''small-eyed'' and ''splits'' table entries to provide consistency with the narrative portion of the standard.

This notice provides for a 60 day comment period for interested parties to comment on proposed revisions to the standards. The following is an outline of these changes.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]

Current standard	Proposed	Discussion
Definitions	No change	N/A.
Swiss cheese, Emmentaler cheese	No change	N/A.
(a) For the purpose of this subpart, the words ''Swiss'' and ''Emmentaler'' are interchangeable.	No change	N/A.
(b) Swiss cheese is cheese made by the Swiss process or by any other procedure which produces a finished cheese having the same physical and chemical properties as cheese produced by the Swiss process. It is prepared from milk and has holes, or eyes, developed throughout the cheese by microbiological activity. It contains not more than 41 percent of moisture, and its solids contain not less than 43 percent of milkfat. It is not less than 60 days old and conforms to the provisions of 21 CFR 133.195, ''Cheese and Related Cheese Products,'' Food and Drug Administration.	No change	N/A.
Styles	No change	N/A.
(a) Rind. The cheese is completely covered by a rind sufficient to protect the interior of the cheese.	No change	N/A.
(b) Rindless. The cheese is properly enclosed in a wrapper or covering which will not impart any objectionable flavor or color to the cheese. The wrapper or covering is sealed with a sufficient overlap or satisfactory closure to exclude air. The wrapper or covering is of sufficiently low permeability to water vapor and air so as to prevent the formation of a rind through contact with air during the curing and holding periods.	No change	N/A.
U.S. Grades	No change	N/A.
Nomenclature of U.S. grades	No change	N/A.
The nomenclature of the U.S. grades is as follows:	No change	N/A.
(a) U.S. Grade A	No change	N/A.
(b) U.S. Grade B	No change	N/A.
(c) U.S. Grade C	No change	N/A.
Basis for determination of U.S. grades	No change	N/A.
(a) The determination of U.S. grades of Swiss cheese shall be on the basis of rating the following quality factors:	No change	N/A.
(1) Flavor	No change	N/A.
(2) Body	No change	N/A.
(3) Eyes and texture	No change	N/A.
(4) Finish and appearance, and	No change	N/A.
(5) Color	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(b) The rating of each quality factor shall be established on the basis of characteristics present in a randomly selected sample representing a vat of cheese. In the case of institutional-size cuts, samples may be selected on a lot basis.	No change	N/A.
(c) To determine flavor and body characteristics, the grader will examine a full trier plug of cheese withdrawn at the approximate center of one of the largest flat surface areas of the sample. For some institutional-size samples, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade may be determined from a smaller portion of a plug.	No change	N/A.
(d) To determine eyes and texture as well as color characteristics, the wheel or block shall be divided approximately in half, exposing two cut surfaces, for examination. The exposed cut surfaces of institutional-size packages shall be used to determine eye and texture as well as color characteristics.	No change	N/A.
(e) A U.S. grade may be assigned to institutional-size packages. In some instances, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade determination may be assigned on a smaller portion of a plug. The exposed cut surfaces of these size packages shall be used to determine eye and texture as well as color characteristics.	Delete	We propose to delete this paragraph. Instructions for grading institutional sized packages of Swiss cheese is adequately addressed in paragraph (c) of this section.
(f) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.	(e) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality factors.	We propose to redesignate this paragraph as (e) for editorial clarity.
Specifications for U.S. grades	No change	N/A.
(a) U.S. grade A. U.S. grade A Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):	No change	N/A.
(1) Flavor: Shall be a pleasing and desirable characteristic Swiss cheese flavor, consistent with the age of the cheese, and free from undesirable flavors.	No change	N/A
(2) Body: Shall be uniform, firm, and smooth	No change	N/A.
(3) Eyes and texture: The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are uniformly distributed.	(3) Eyes and texture: The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are relatively uniform in size and distribution.	We propose to reword this description to include a provision for uniformity of eye size. Uniformity of eye size within the proposed larger range is necessary to address quality issues in Grade A Swiss cheese.
The majority of the eyes shall be 11/16 to 13/16 inch in diameter.	The majority of the eyes shall be 3/8 to 13/16 inch in diameter.	We propose to increase the allowable range of eye sizes for Grade A Swiss cheese to include eyes of a smaller diameter. This broadened range more accurately reflects current marketing practices.
The cheese may possess the following eye characteristics to a very slight degree: dull, rough, and shell; and the following texture characteristics to a very slight degree: checks and picks.	The cheese may possess the following eye characteristics to a very slight degree: dull, rough, and shell; and the following texture characteristics to a very slight degree: checks, picks and streuble.	We propose to revise this list of allowable defects to include very slight streuble. The change brings this paragraph into agreement with Table III of this standard.
(4) Finish and appearance—(i) Rind. The rind shall be sound, firm, and smooth, providing good protection to the cheese. The surface of the cheese may exhibit mold to a very slight degree. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.
(ii) Rindless. Rindless blocks of Swiss cheese should not be less than 6 ½ inches nor more than 8½ inches in height, reasonably uniform in size, and well shaped.	(ii) Rindless. Rindless blocks of Swiss cheese should be reasonably uniform in size, and well shaped.	We propose to remove recommendations for block heights of rindless Swiss cheese. Technological improvements have made it possible to produce quality Swiss cheese in a variety of sizes; therefore, these limitations are no longer necessary.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken, and fully protect the surface of the cheese, but may be slightly wrinkled. The surface of the cheese may exhibit mold to a very slight degree. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.
(5) Color: Shall be natural, attractive, and uniform.	(5) Color: Shall be natural, attractive, and uniform. The cheese shall be white to light yellow in color.	We propose to include additional descriptors for color to provide greater clarity to those utilizing these grade standards. These descriptors are proposed to provide consistent interpretation of the terms natural and attractive.
(b) U.S. grade B. U.S. grade B Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):	No change	N/A.
(1) Flavor: Shall be a pleasing and desirable characteristic Swiss cheese flavor, consistent with the age of the cheese, and free from undesirable flavors. The cheese may possess the following flavors to a slight degree: acid, bitter, feed, flat, and utensil.	No change	N/A
(2) Body: Shall be uniform, firm, and smooth. The cheese may possess a slight weak body.	No change	N/A.
(3) Eyes and texture: The cheese shall possess well-developed round or slightly oval-shaped eyes.	No change	N/A.
	The majority of the eyes shall be 3/8 to 11/16 inch in diameter.	We propose to include the broadened eye size range in standards for Grade B Swiss cheese. This addition will promote consistency within the standards, since eye size requirements appear in the current Grade B standard under the alternate method for determining grades.
The cheese may possess the following eye characteristics to a very slight degree: dead eyes, nesty and small eyed; and the following to a slight degree: dull, frogmouth, one sided, overset, rough, shell, underset, and uneven.	The cheese may possess the following eye characteristics to a very slight degree: dead eyes and nesty; and the following to a slight degree: dull, frogmouth, one sided, overset, rough, shell, underset, and uneven.	We propose deleting the very slight level of the small eyed defect. The proposed lower eye size requirement is 3/8 of an inch. Definitions of small eyed at both the very slight and slight levels are not necessary to determine product grades given this narrow margin between acceptable eyes and blind Swiss cheese.
The cheese may possess the following texture characteristics to a slight degree: checks, picks and streuble.	No change	N/A.
(4) Finish and appearance—(i) Rind. The rind shall be sound, firm, and smooth; providing good protection to the cheese. The cheese may exhibit the following characteristics to a slight degree: huffed, mold, soiled, uneven, and wet rind. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.
(ii) Rindless. Rindless blocks of Swiss cheese should not be less than 6½ inches nor more than 8½ inches in height.	Delete	We propose to delete references to block heights in the standard. Technology improvements have made it possible to produce quality Swiss cheese in a variety of sizes; therefore, these limitations are no longer necessary.
The wrapper or covering shall adequately and securely envelop the cheese, be neat, unbroken and fully protect the surface, but may be slightly wrinkled.	(ii) The wrapper or covering of rindless blocks of Swiss cheese shall adequately and securely envelop the cheese, be neat, unbroken and fully protect the surface, but may be slightly wrinkled.	We propose this rewording for increased editorial clarity in the absence of the introductory sentence of the paragraph.
The cheese may exhibit the following characteristics to a slight degree: huffed, mold, uneven, and wet surface. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(5) Color: The cheese may possess to a slight degree a bleached surface.	(5) Color: The cheese shall be white to light yellow in color. The cheese may possess to a slight degree a bleached surface.	We propose to include additional descriptors for color to provide greater clarity to those utilizing these grade standards. These descriptors are proposed to provide consistent interpretation of the terms natural and attractive.
(c) U.S. grade C. U.S. grade C Swiss cheese shall conform to the following requirements (See Tables I, II, III, IV, and V of this section):	No change	N/A.
(1) Flavor: Shall possess a characteristic Swiss cheese flavor which is consistent with the age of the cheese.	No change	N/A.
The cheese may possess the following flavors to a slight degree: barny, flat, fruity, rancid, metallic, old milk, onion, sour, weedy, whey-taint, and yeasty; and the following to a definite degree: acid, bitter, feed, and utensil.	The cheese may possess the following flavors to a slight degree: barny, fruity, metallic, old milk, onion, rancid, sour, weedy, whey-taint, and yeasty; and the following to a definite degree: acid, bitter, feed, flat and utensil.	We propose to place the term rancid in correct alphabetical order within the list for clarity, and place flat in the definite category as it appears in Table III.
(2) Body: Shall be uniform and may possess the following characteristics to a slight degree: coarse, pasty, and short; and to a definite degree the cheese may be weak.	No change	N/A.
(3) Eyes and texture: The cheese may possess the following eye characteristics to a slight degree: afterset, cabbage, collapsed, irregular, large eyed, and small eyed, and the following to a definite degree: dead eyes, dull, frog mouth, nesty, rough, one sided, overset, shell, underset, and uneven.	(3) Eyes and texture: The cheese may possess the following eye characteristics to a slight degree: afterset, cabbage, collapsed, irregular, large eyed, and small eyed, and the following to a definite degree: dead eyes, dull, frog mouth, nesty, one sided, overset, rough, shell, underset, and uneven.	We propose this editorial change to place the term rough in correct alphabetical order within the list of defects.
The cheese may possess the following texture characteristics to a slight degree: gassy, splits and sweet holes; and the following to a definite degree: checks, picks and streuble.	No change	N/A.
(4) Finish and appearance—(i) Rind. The rind shall be sound, providing good protection to the cheese. The cheese may exhibit the following characteristics to a slight degree: checked rind, and soft spots; and the following to a definite degree: huffed, mold, soiled, uneven, and wet rind. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.
(ii) Rindless. The wrapper or covering shall adequately and securely envelop the cheese, be unbroken, fully protect the surface and may be wrinkled. The cheese may exhibit a very slight soiled surface and contain soft spots to a slight degree. The cheese may possess the following characteristics to a definite degree: huffed, mold, uneven, and wet surface. There shall be no indication that mold has penetrated into the interior of the cheese.	No change	N/A.
(5) Color. The cheese may possess the following color characteristics to a slight degree: acid cut, bleached, colored spots, dull or faded, mottled and pink ring; and to a definite degree bleached surface.	(5) Color. The cheese may possess the following color characteristics to a slight degree: acid cut, colored spots, dull or faded, mottled and pink ring; and to a definite degree bleached surface.	We propose to delete bleached from the list of slight defects. Swiss cheese color is defined as white, and bleaching of the milk used to make the cheese is allowed under the Food and Drug Administration's standard of identity for Swiss cheese.

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

BILLING CODE 3410–02–P

Table I.--Classification of Flavor
Identification of Flavor Characteristics

	U.S. Grade		
	A	**B**	**C**
Acid	------	S	D
Barny	------	------	S
Bitter	------	S	D
Feed	------	S	D
Flat	------	S	D
Fruity	------	------	S
Rancid	------	------	S
Metallic	------	------	S
Old Milk	------	------	S
Onion	------	------	S
Sour	------	------	S
Utensil	------	S	D
Weedy	------	------	S
Whey-Taint	------	------	S
Yeasty	------	------	S

S--Slight. D--Definite.

Table II.--Classification of Body
Identification of body characteristics
U.S. Grade

	A	**B**	**C**
Coarse	------	------	S
Pasty	------	------	S
Short	------	------	S
Weak	------	S	D

S--Slight. D--Definite.

Table I.--Classification of Flavor
Identification of Flavor Characteristics

	U.S. Grade		
	A	**B**	**C**
Acid	------	S	D
Barny	------	------	S
Bitter	------	S	D
Feed	------	S	D
Flat	------	S	D
Fruity	------	------	S
Metallic	------	------	S
Old Milk	------	------	S
Onion	------	------	S
Rancid	------	------	S
Sour	------	------	S
Utensil	------	S	D
Weedy	------	------	S
Whey-Taint	------	------	S
Yeasty	------	------	S

S--Slight. D--Definite.

No change.

We propose placing the term rancid in proper alphabetical order within the list in this table.

N/A.

Table III.--Classification of Eyes and Texture

(For the evaluations of cut surfaces)

Identification of eyes and texture characteristics	U.S. Grade		
	A	B	C
Afterset	------	------	S
Cabbage	------	------	S
Checks	VS	S	D
Collapsed	------	------	S
Dead	------	VS	D
Dull	VS	S	D
Frog mouth	------	S	D
Gassy	------	------	S
Irregular	------	------	S
Large eyed	------	------	S
Nesty	------	VS	D
One sided	------	S	D
Overset	------	S	D
Picks	VS	S	D
Rough	VS	S	D
Shell	VS	S	D
Small eyed	------	VS	S
Splits	------	------	D
Streuble	VS	S	D
Sweet holes	------	------	S
Underset	------	S	D
Uneven	------	S	D

VS--Very Slight .S--Slight.
D--Definite.

Table III.--Classification of Eyes and Texture

(For the evaluations of cut surfaces)

Identification of eyes and texture characteristics	U.S. Grade		
	A	B	C
Afterset	------	------	S
Cabbage	------	------	S
Checks	VS	S	D
Collapsed	------	------	S
Dead	------	VS	D
Dull	VS	S	D
Frog mouth	------	S	D
Gassy	------	------	S
Irregular	------	------	S
Large eyed	------	------	S
Nesty	------	VS	D
One sided	------	S	D
Overset	------	S	D
Picks	VS	S	D
Rough	VS	S	D
Shell	VS	S	D
Small eyed	------	------	S
Splits	------	------	S
Streuble	VS	S	D
Sweet holes	------	------	S
Underset	------	S	D
Uneven	------	S	D

VS--Very Slight .S--Slight.
D--Definite.

We propose modification of Table III to remove the allowance of very slight small eyed in Grade B Swiss cheese. The very slight defect level is no longer relevant with the larger range of acceptable eye sizes that has been proposed for the standard. The proposed lower eye size requirement is $^{3}/_{8}$ of an inch. Definitions of small eyed at both the very slight and slight levels are not necessary to determine product grades given this narrow margin between acceptable eyes and blind Swiss cheese. Additionally, we propose to change the splits defect from definite to slight in Grade C Swiss cheese. This change is proposed to be consistent with the text of the Grade C standard as well as with the classification of defects in other dairy product standards.

BILLING CODE 3410-02-C

Table IV.--Classification of Finish and Appearance
Identification of finish and appearance characteristics

	U.S. Grade		
	A	**B**	**C**
Checked rind	------	------	S
Huffed	------	S	D
Mold on rind surface	VS	S	D
Mold under wrapper or covering	VS	S	D
Soft spots	------	------	S
Soiled surface (Rind)	------	S	D
Soiled surface (Rindless)	------	------	VS
Uneven	------	S	D
Wet rind	------	S	D
Wet surface (Rindless)	------	S	D

VS--Very Slight S--Slight.D--Definite.

No change. N/A.

Table V.--Classification of Color
Identification of color characteristics

	U.S. Grade		
	A	**B**	**C**
Acid cut	------	------	S
Bleached surface	------	S	D
Colored spots	------	------	S
Dull or faded	------	------	S
Mottled	------	------	S
Pink ring	------	------	S

S--Slight. D--Definite.

No change. N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—CONTINUED

Current standard	Proposed	Discussion
U.S. Grades—Continued:		
U.S. grade not assignable	No change	N/A.
Swiss cheese shall not be assigned a U.S. grade for one or more of the following reasons:	No change	N/A.
(a) Fails to meet or exceed the requirements for U.S. Grade C.	No change	N/A.
(b) Fails to meet composition, minimum age, or other requirements of the Food and Drug Administration.	No change	N/A.
(c) Produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.	No change	N/A.
(d) Produced in a plant which has not been USDA inspected and approved.	Delete	We propose this deletion because requirements contained in 7 CFR Part 58, Subpart A sufficiently address this issue.
Explanation of terms	No change	N/A.
Explanation of terms	No change	N/A.
(a) *With respect to style:*	No change	N/A.
(1) Rind.—Cheese which has a hard protective outer layer formed by drying the cheese surface and by the addition of salt (usually wheel shaped).	No change	N/A.
(2) Rindless.—Cheese which has been protected from rind formation and which is packaged with an impervious type of wrapper or covering enclosing the cheese (usually cube or rectangular shaped).	No change	N/A.
(3) Institutional-size packages.—Multipound, wrapped portions of cheese, generally cut from a larger piece, intended for use by restaurants, delicatessens, schools, and etc.	No change	N/A.
(b) *With respect to flavor:*	No change	N/A.
(1) Slight.—Detected only upon critical examination.	No change	N/A.
(2) Definite.—Not intense but detectable	No change	N/A.
(3) Undesirable.—Identifiable flavors in excess of the intensity permitted, or those flavors not listed.	No change	N/A.
(4) Acid.—Sharp and puckery to the taste, characteristic of lactic acid.	No change	N/A.
(5) Barny.—A flavor characteristic of the odor of a cow stable.	No change	N/A.
(6) Bitter.—A distasteful flavor similar to the taste of quinine.	No change	N/A.
(7) Feed.—Feed flavors (such as alfalfa, sweet clover, silage, or similar feed) in milk carried through into the cheese.	No change	N/A.
(8) Flat.—Insipid, practically devoid of any characteristic Swiss cheese flavor.	No change	N/A.
(9) Fruity.—A sweet fruit-like flavor resembling apples; generally increasing in intensity as the cheese ages.	No change	N/A.
(10) Rancid.—A flavor suggestive of rancidity or butyric acid, sometimes associated with a bitterness.	No change	N/A.
(11) Metallic.—A flavor having qualities suggestive of metal, imparting a puckery sensation.	No change	N/A.
(12) Old Milk.—Lacks freshness	No change	N/A.
(13) Onion.—This flavor is recognized by the peculiar taste and odor suggestive of its name. Present in milk or cheese when the cows have eaten onions, garlic or leeks.	No change	N/A.
(14) Sour.—An acid, pungent flavor resembling vinegar.	No change	N/A.
(15) Utensil.—A flavor that is suggestive of improper or inadequate washing and sanitizing of milking machines, utensils or factory equipment.	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(16) Weedy.—A flavor due to the use of milk which possesses a common weedy flavor. Present in cheese when cows have eaten weedy feed or grazed on common weed-infested pastures.	No change	N/A.
(17) Whey-Taint.—A slightly acid taste and odor characteristic of fermented whey, caused by too slow expulsion of whey from the curd.	No change	N/A.
(18) Yeasty.—A flavor indicating yeast fermentation.	No change	N/A.
(c) *With respect to body:*	No change	N/A.
(1) Slight.—Detected only upon critical examination..	No change	N/A.
(2) Definite.—Not intense but detectable	No change	N/A.
(3) Smooth.—Feels silky; not dry and coarse or rough.	No change	N/A.
(4) Firm.—Feels solid, not soft or weak	No change	N/A.
(5) Coarse.—Feels rough, dry and sandy	No change	N/A.
(6) Pasty.—Usually weak body and when the cheese is rubbed between the thumb and fingers it becomes sticky and smeary.	No change	N/A.
(7) Short.—No elasticity to the plug when rubbed between the thumb and fingers.	No change	N/A.
(8) Uniform.—Not variable	No change	N/A.
(9) Weak.—Requires little pressure to crush, is soft but is not necessarily sticky like pasty cheese.	No change	N/A.
(d) *With respect to eyes and texture in general:*	No change	N/A.
(1) Blind.—No eye formation present	No change	N/A.
(2) Set.—The number of eyes in any given area of cheese.	No change	N/A.
(3) Well developed eyes.—Eyes perfectly developed, glossy or velvety, with smooth even walls, round or slightly oval in shape, and fairly uniform in distribution throughout the cheese.	No change	N/A.
(e) *With respect to eyes and texture as it relates to cabbage, collapsed, dead, dull, frog mouth, irregular, rough and shell:.*	No change	N/A.
(1) Very Slight.—Characteristic exhibited in less than 5% of the eyes.	No change	N/A.
(2) Slight.—Characteristic exhibited in 5% or more but less than 10% of the eyes.	No change	N/A.
(3) Definite.—Characteristic exhibited in 10% or more but less than 20% of the eyes.	No change	N/A.
(4) Cabbage.—Cheese having eyes so numerous within the major part of the cheese that they crowd each other, leaving only a paper-thin layer of cheese between the eyes, causing the cheese to have a cabbage appearance and very irregular eyes.	No change	N/A.
(5) Collapsed.—Eyes which have not formed properly and do not appear round or slightly oval but rather flattened and appear to have collapsed.	No change	N/A.
(6) Dead.—Developed eyes that have completely lost their glossy or velvety appearance.	No change	N/A.
(7) Dull.—Eyes that have lost some of their bright shiny luster.	No change	N/A.
(8) Frog mouth.—Eyes which have developed into a lenticular or spindle-shaped opening.	No change	N/A.
(9) Irregular.—Eyes which have not formed properly and do not appear round or slightly oval and which are not accurately described by other more descriptive terms.	No change	N/A.
(10) Rough.—Eyes which do not have smooth, even walls.	No change	N/A.
(11) Shell.—A rough nut shell appearance on the wall surface of the eyes.	No change	N/A.
(f) *With respect to eyes and texture as it relates to streuble:*	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(1) Very Slight.—Extends no more than 1/8 inch into the body of the cheese.	No change	N/A.
(2) Slight.—Extends 1/8 inch or more but less than 1/4 inch into the body of the cheese.	No change	N/A.
(3) Definite.—Extends 1/4 inch or more but less than 1/2 inch into the body of the cheese.	No change	N/A.
(4) Streuble—An overabundance of small eyes just under the surface of the cheese.	No change	N/A.
(g) *With respect to eyes and texture as it relates to checks, picks, and splits:*	No change	N/A.
(1) Very Slight.—Infrequent occurrence, not more than 1 inch from the surface.	No change	N/A.
(2) Slight.—Limited occurrence, not more than 1 inch from the surface.	No change	N/A.
(3) Definite.—Limited occurrence throughout cheese.	No change	N/A.
(4) Checks.—Small, short cracks within the body of the cheese.	No change	N/A.
(5) Picks.—Small irregular or ragged openings within the body of the cheese.	No change	N/A.
(6) Splits.—Sizable cracks, usually in parallel layers and usually clean cut, found within the body of the cheese.	No change	N/A.
(h) *With respect to eyes and texture as it relates to large eyed and small eyed:*.	No change	N/A.
(1) Very Slight.—Majority of the eyes less than 11/16 and more than 1/2 inch.	Delete	We propose removal of the very slight defect level of these characteristics. The proposed lower eye size requirement is 3/8 of an inch. Definitions of small eyed at both the very slight and slight levels are not necessary to determine product grades given this narrow margin between acceptable eyes and blind Swiss cheese.
(2) Slight.—Majority of the eyes less than inch 1/2 but more than 5/16 inch or more than 13/16 inch but less than 1 inch.	(1) Slight.—Majority of the eyes less than 3/8 inch but more than 1/8 inch or more than 13/16 inch but less than 1 inch..	We propose these changes to place the definition of this defect level in agreement with the newly proposed eye size range.
(3) Large eyed.—Eyes in excess of 13/16 inch ...	(2) Large eyed.—Eyes in excess of 13/16 inch	We propose this editorial change for clarity of the standard.
(4) Small eyed.—Eyes less than 11/16 inch	(3) Small eyed.—Eyes less than 11/16 inch	We propose this editorial change for clarity of the standard.
	(4) Relatively uniform eye size.—The majority of eyes fall within a 1/4 inch range.	We propose to include this explanation of uniform eye size to apply to Grade A Swiss cheese. Uniformity of eye size is considered to be a measure of quality in Swiss cheese and should be recognized at this grade, particularly in light of the proposed broadening of the range of acceptable eye sizes.
(i) *With respect to eyes and texture as it relates to gassy and sweet holes:*.	No change	N/A.
(1) Slight.—No more than 3 occurrences per any given 2 square inches.	No change	N/A.
(2) Gassy.—Gas holes of various sizes which may be scattered.	No change	N/A.
(3) Sweet holes.—Spherical gas holes, glossy in appearance; usually about the size of BB shot.	No change	N/A.
(j) *With respect to eyes and texture as it relates to nesty:*	No change	N/A.
(1) Very Slight.—Occurrence limited to no more than 5% of the exposed cut area of the cheese.	No change	N/A.
(2) Slight.—Occurrence more than 5% but less than 10% of the exposed cut area of the cheese.	No change	N/A.
(3) Definite.—Occurrence more than 10% but less than 20% of the exposed cut area of the cheese.	No change	N/A.
(4) Nesty.—An overabundance of small eyes in a localized area.	No change	N/A.
(k) *With respect to eyes and texture as it relates to one-sided and uneven:*	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(1) Slight.—Eyes evenly distributed throughout at least 90% of the total cheese area.	No change	N/A.
(2) Definite.—Eyes evenly distributed throughout at least 75% but less than 90% of the total cheese area.	No change	N/A.
(3) One sided.—Cheese which is reasonably developed on one side and underdeveloped on the other as to eye development.	No change	N/A.
(4) Uneven.—Cheese which is reasonably developed in some areas and underdeveloped in others as to eye development.	No change	N/A.
(l) *With respect to eyes and texture as it relates to afterset, overset, and underset:*	No change	N/A.
(1) Very slight.—Number of eyes present exceed or fall short of the ideal by limited amount.	No change	N/A.
(2) Slight.—Number of eyes present exceed or fall short of the ideal by a moderate amount.	No change	N/A.
(3) Afterset.—Small eyes caused by secondary fermentation.	No change	N/A.
(4) Overset.—Excessive number of eyes present.	No change	N/A.
(5) Underset.—Too few eyes present	No change	N/A.
(m) *With respect to finish and appearance:*	No change	N/A.
(1) Very slight.—Detected only upon very critical examination.	No change	N/A.
(2) Slight.—Detected only upon critical examination.	No change	N/A.
(3) Definite.—Not intense but detectable	No change	N/A.
(4) Checked rind.—Numerous small cracks or breaks in the rind.	No change	N/A.
(5) Huffed.—The cheese becomes rounded or oval in shape instead of flat.	No change	N/A.
(6) Mold on rind surface.—Mold spots or areas which have formed on the rind surface.	No change	N/A.
(7) Mold under wrapper or covering.—Mold spots or area that have formed under the wrapper or on the cheese.	No change	N/A.
(8) Soft spots.—Spots which are soft to the touch and usually faded and moist.	No change	N/A.
(9) Soiled surface.—Milkstone, rust spots, grease, or other discoloration on the surface of the cheese.	No change	N/A.
(10) Uneven.—One side of the cheese is higher than the other.	No change	N/A.
(11) Wet rind.—A wet rind is one in which the moisture adheres to the surface of the rind and which may or may not soften the rind or cause discoloration.	No change	N/A.
(12) Wet surface (rindless).—A wet surface is one in which the moisture appears between the wrapper and the cheese surface.	No change	N/A.
(n) *With respect to color:*	No change	N/A.
(1) Slight.—Detectable only upon critical examination.	No change	N/A.
(2) Definite.—Not intense but detectable	No change	N/A.
(3) Acid cut.—Bleached or faded appearance which sometimes varies throughout the cheese.	No change	N/A.
(4) Bleached surface.—A faded coloring beginning at the surface and extending inward a short distance.	No change	N/A.
(5) Colored spots.—Brightly colored areas (pink to brick red or gray to black) of bacteria growing in readily discernible colonies randomly distributed throughout the cheese.	No change	N/A.
(6) Dull or faded.—A color condition lacking in luster.	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
(7) Mottled.—Irregular-shaped spots or blotches in which portions are light colored and others are higher colored. Also, unevenness of color due to combining two different vats, sometimes referred to as ''mixed curd.''.	No change	N/A.
(8) Pink ring.—A color condition which usually appears pink to brownish red and occurs as a uniform band near the cheese surface and may follow eye formation.	No change	N/A.
Supplement to U.S. Standards for Grades of Swiss Cheese, Emmentaler Cheese.	No change	N/A.
Alternate method for determination of U.S. grades.	No change	N/A.
(a) This alternate method shall be used only when requested by the applicant. With this method, the eyes and texture and color factors are rated on the basis of trier plugs rather than by slicing the cheese. A statement shall appear on the grading certificate indicating that the alternate method was used as requested by the applicant.	No change	N/A.
(b) The following quality factors shall be rated when using the alternate method for determining U.S. grades:	No change	N/A.
(1) Flavor	No change	N/A.
(2) Body	No change	N/A.
(3) Eyes and texture	No change	N/A.
(4) Finish and appearance, and	No change	N/A.
(5) Color	No change	N/A.
(c) Flavor and body ratings shall be determined by the methods prescribed in § 58.2573 (b) and (c).	(c) Flavor and body ratings shall be determined by the methods prescribed in the section titled, ''Basis for determination of U.S. grades,'' (b) and (c).	When U.S. grade standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(d) Finish and appearance ratings shall be determined as prescribed in § 58.2574.	(d) Finish and appearance ratings shall be determined as prescribed in the section titled, ''Specifications for U.S. grades''.	When U.S. grade standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(e) Eyes and texture, and color ratings shall be determined by drawing and examining at least two full trier plugs, withdrawn at the approximate center of one of the largest flat surface areas of the sample. For some institutional-size samples, it may not be possible to obtain a full trier plug. When this occurs, a U.S. grade may be determined from a smaller portion of a plug.	No change	N/A.
(f) The final U.S. grade shall be established on the basis of the lowest rating of any one quality factor.	No change	N/A.
Specifications for U.S. grades when using the alternate method.	No change	N/A.
(a) U.S. grade A. U.S. grade A Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574).	(a) U.S. grade A. U.S. grade A Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of these standards).	When U.S. grade standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(1) Eyes and texture. The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are uniformly distributed.	(1) Eyes and texture. The cheese shall be properly set and shall possess well-developed round or slightly oval-shaped eyes which are relatively uniform in size and in distribution.	We propose to reword this description to include a provision for uniformity of eye size.
A full plug drawn from the cheese shall be free from splits, and not appear gassy or large eyed; it may possess checks and picks within 1 inch from the surface, and may possess a limited number of checks and picks beyond 1 inch from the surface.	No change	N/A.

UNITED STATES STANDARDS FOR GRADES OF SWISS CHEESE, EMMENTALER CHEESE [1]—Continued

Current standard	Proposed	Discussion
The majority of the eyes shall be 11/16 to 13/16 inch in diameter.	The majority of the eyes shall be 3/8 to 13/16 inch in diameter.	We propose to increase the allowable range of eye sizes for Grade A Swiss cheese to include eyes of a smaller diameter.
The cheese shall have at least two but not more than eight eyes to a trier plug.	No change	N/A.
(2) Color. Shall be natural, attractive and uniform.	(2) Color. Shall be natural, attractive and uniform. The cheese shall be white to light yellow in color.	We propose to include additional descriptors for color to provide greater clarity to those utilizing these grade standards. These descriptors are proposed to provide consistent interpretation of the terms natural and attractive.
(b) U.S. grade B. U.S. grade B Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574).	(b) U.S. grade B. U.S. grade B Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of these standards).	When U.S. grade standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(1) Eyes and texture. The cheese shall possess well-developed round or slightly oval-shaped eyes. A full plug drawn from the cheese shall be free from splits, and not appear gassy or large eyed; and may be moderately overset and have a limited amount of checks and picks.	No change	N/A.
The majority of the eyes shall be in the range of 1/2 to 13/16 inch in diameter.	The majority of the eyes shall be in the range of 3/8 to 13/16 inch in diameter.	We propose this change to make the existing requirement consistent with changes proposed for Grade A and Grade B under the regular grading procedures.
The cheese shall have at least one but not more than ten eyes to a trier plug.	No change	N/A.
(2) Color. The cheese may possess, to a slight degree, a bleached surface.	(2) Color. The cheese shall be white to light yellow in color. The cheese may possess, to a slight degree, a bleached surface.	We propose to include additional descriptors for color to provide greater clarity to those utilizing these grade standards. These descriptors are proposed to provide consistent interpretation of the terms natural and attractive.
(c) U.S. grade C. U.S. grade C Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of § 58.2574).	(c) U.S. grade C. U.S. grade C Swiss cheese shall conform to the following requirements (See Tables I, II, IV, and V of these standards).	When U.S. grade standards were removed from the Code of Federal Regulations, it was no longer appropriate to reference particular sections of the Code. We propose to modify this sentence accordingly.
(1) Eyes and texture. A full plug drawn from the cheese may be overset, shell or dead eyed; have splits, checks, picks, and gassy; and may be large eyed to a slight degree. The cheese is not totally blind or totally gassy.	No change	N/A.
(2) Color. The cheese may possess the following color characteristics to a slight degree: acid cut, colored spots, dull or faded, mottled and pink ring; and, to a definite degree, a bleached surface.	No change	N/A.

Authority: (7 U.S.C. 1621–1627).

Dated: July 12, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–18074 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Pacific Southwest Region; California

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Pacific Southwest Region to publish legal notices of all decisions subject to appeal under 36 CFR 215 and 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of a timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the newspapers listed in the **SUPPLEMENTARY INFORMATION** section of this notice will begin with decisions subject to appeal that are made on or after August 1, 2000. The list of newspapers will remain in effect until

August 2001, when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sue Danner, Regional Appeals Manager, Pacific Southwest Region, 1323 Club Drive, Vallejo, California 94592, 707–562–8945.

SUPPLEMENTARY INFORMATION: On November 4, 1993, 36 CFR parts 215 and 217 were published requiring publication of legal notice of decisions subject to appeal. Sections 215.5 and 217.5 require notice published in the **Federal Register** advising the public of the principal newspapers to be utilized for publishing legal notices. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the primary newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (primary) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Southwest Regional Office

Regional Forester Decisions

Sacramento Bee, published daily in Sacramento, Sacramento County, California, for decisions affecting National Forest System lands and for any decision of Region-wide impact.

Angeles National Forest, California

Forest Supervisor Decisions

Los Angeles Times, published daily in Los Angeles, Los Angeles County, California..

District Rangers Decisions

Los Angeles Ranger District: *Daily News,* published daily in Los Angeles, Los Angeles County, California.

Newspapers providing additional notice of Los Angeles District Ranger decisions: *Pasadena Star News,* published in Pasadena, California; and *Foothill Leader,* published in Glendale, California.

San Gabriel River Ranger District: *Inland Valley Bulletin,* published daily in Los Angeles, Los Angeles County, California.

Newspaper providing additional notice of San Gabriel River District Ranger decisions: *San Gabriel Valley Tribune,* published in the eastern San Gabriel Valley, California.

Santa Clara/Mojave Rivers Ranger District: *Daily News,* published daily in Los Angeles, Los Angeles County, California.

Newspapers providing additional notice of Santa Clara/Mojave Rivers District Ranger decisions: *Antelope Valley Press,* published in Palmdale, California; and *Mountaineer Progress,* published in Wrightwood, California.

Cleveland National Forest, California

Forest Supervisor Decisions

San Diego Union-Tribune, published daily in San Diego, San Diego County, California.

District Rangers Decisions

Descanso Ranger District: *San Diego Union-Tribune,* published daily in San Diego County, California.

Palomar Ranger District: *San Diego Union-Tribune,* published daily in San Diego, San Diego County, California.

Newspaper providing additional notice of Palomar District Ranger decisions: *Riverside Press Enterprise,* published daily in Riverside, Riverside County, California.

Trabuco Ranger District: *Riverside Press Enterprise,* published daily in Riverside, Riverside County, California.

Newspaper providing additional notice of Trabuco District Ranger decisions: *Orange County Register,* published daily in Santa Ana, Orange County, California.

Eldorado National Forest, California

Forest Supervisor Decisions

Mountain Democrat published four-times weekly in Placerville, El Dorado County, California

District Rangers Decisions

Mountain Democrat published four-times weekly in Placerville, El Dorado County, California.

Inyo National Forest, California

Forest Supervisor Decisions

Inyo Register published three-times weekly in Bishop, Inyo County, California.

District Rangers Decisions

Inyo Register published three-times weekly in Bishop, Inyo County, California.

Klamath National Forest, California

Forest Supervisor Decisions

Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.

District Rangers Decisions

Siskiyou Daily News, published daily in Yreka, Siskiyou County, California.

Lake Tahoe Basin Management Unit, California and Nevada

Forest Supervisor Decisions

Tahoe Daily Tribune, published daily (five-times weekly) in South Lake Tahoe, El Dorado County, California.

Lassen National Forest, California

Forest Supervisor Decisions

Lassen County Times, published weekly in Susanville, Lassen County, California.

District Rangers Decisions

Eagle Lake Ranger District: *Lassen County Times*, published weekly in Susanville, Lassen County, California.

Almanor Ranger District: *Chester Progressive*, published weekly in Chester, Plumas County, California.

Hat Creek Ranger District: *Intermountain News*, published weekly in Burney, Shasta County, California.

Los Padres National Forest, California

Forest Supervisor Decisions

Santa Barbara News Press, published daily in Santa Barbara, Santa Barbara County, California.

District Rangers Decisions

Monterey Ranger District: *Monterey County Herald*, published daily in Monterey, Monterey County, California.

Santa Lucia Ranger District: *Telegram Tribune*, published daily in San Luis Obispo, San Luis Obispo County, California.

Santa Barbara Ranger District: *Santa Barbara News Press*, published daily in Santa Barbara, Santa Barbara County, California.

Ojai Ranger District: *Ventura Star*, published daily in Ventura Ventura County, California.

Mt. Pinos Ranger District: *The Bakersfield Californian,*, published daily in Bakersfield, Kern County, California.

Mendocino National Forest, California

Forest Supervisor Decisions

Chico Enterprise-Record, published daily in Chico, Butte County, California.

District Rangers Decisions

Grindstone Ranger District: *Chico Enterprise-Record,* published daily in Chico, Butte County, California.

Upper Lake and Covel Districts: *Ukiah Daily Journal,* published daily in Ukiah, Mendocino County, California.

Modoc National Forest, California

Forest Supervisor Decisions

The Modoc County Record, published weekly in Alturas, Modoc County, California.

District Rangers Decisions

The Modoc County Record, published weekly in Alturas, Modoc County, California.

Plumas National Forest, California

Forest Supervisor Decisions

Feather River Bulletin, published weekly in Quincy, Plumas County, California.

Newspaper providing additional notice for Environmental Impact Statements: *Sacramento Bee,* published daily in Sacramento, Sacramento County, California.

District Rangers Decisions

Beckwourth Ranger District: *Feather River Bulletin,* published weekly in Quincy, Plumas County, California.

Newspaper occasionally providing additional notice of Beckwourth District Ranger decisions: *Portola Reporter,* published in Portola, Plumas County California.

Feather River Ranger District: *Oroville Mercury Register,* published daily in Oroville, Butte County, California.

Newspaper occasionally providing additional notice of Feather River District Ranger decisions: *Feather River Bulletin,* published weekly in Quincy, Plumas County, California.

Mt. Hough Ranger District: *Feather River Bulletin,* published weekly in Quincy, Plumas County, California.

Newspaper occasionally providing additional notice of Mt. Hough District Ranger decisions: *Portola Reporter,* published in Portola, Plumas County, California.

San Bernardino National Forest, California

Forest Supervisor Decisions

San Bernardino Sun, published daily in San Bernardino, San Bernardino County, California.

District Rangers Decisions

Arrowhead Ranger District: *Mountain News,* published weekly in Blue Jay, San Bernardino County, California.

Big Bear Ranger District: *Big Bear Life and Grizzly,* published weekly in Big Bear, San Bernardino County, California.

Cajon Ranger District: *San Bernardino Sun,* published daily in San Bernardino County, California.

San Gorgonio Ranger District: *Yucaipa News Mirror,* published weekly in Yucaipa, Riverside County, California.

San Jacinto Ranger District: *Idyllwild Town Crier,* published weekly in Idyllwild, Riverside County, California.

Sequoia National Forest, California

Forest Supervisor Decisions

Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.

District Rangers Decisions

Porterville Recorder, published daily (except Sunday) in Porterville, Tulare County, California.

Shasta-Trinity National Forest, California

Forest Supervisor Decisions

Record Searchlight, published daily in Redding, Shasta County, California.

District Rangers Decisions

Record Searchlight, published daily in Redding, Shasta County, California.

Sierra National Forest, California

Forest Supervisor Decisions

Fresno Bee, published daily in Fresno, Fresno County, California.

District Rangers Decisions

Fresno Bee, published daily in Fresno, Fresno County, California.

Six Rivers National Forest, California

Forest Supervisor Decisions

Times Standard, published daily in Eureka, Humboldt County, California.

District Rangers Decisions

Smith River National Recreation Area: *Del Norte Triplicate,* published daily in Crescent City, Del Norte County, California.

Orleans and Lower Trinity Districts: *The Kourier,* published weekly in Willow, Humboldt County, California.

Mad River District: *Times Standard,* published daily in Eureka, Humboldt County, California.

Stanislaus National Forest, California

Forest Supervisor Decisions

The Union Democrat, published daily (fives-times weekly) in Sonora, Tuolumne County, California.

District Rangers Decisions

The Union Democrat, published daily (five-times weekly) in Sonora, Tuolumne County, California.

Newspaper sometimes providing additional notice of Groveland District Ranger decisions: *Mariposa Gazette,* published weekly in Mariposa, California.

Newspaper sometimes providing additional notice of *Calaveras Enterprise,* published twice weekly in San Andreas, California.

Tahoe National Forest, California

Forest Supervisor Decisions

The Union, published daily (except Sunday) in Nevada City, Nevada County, California.

District Rangers Decisions

Downieville and Sierraville Ranger Districts: *Mountain Messenger,* published weekly in Downieville, Sierra County, California.

Newspaper providing additional notice of Sierraville District Ranger decisions: *Sierra Booster,* published weekly in Loyalton, Sierra County, California; and *Portola Recorder,* published weekly in Portola, Plumas County, California.

Foresthill Ranger District: *Auburn Journal,* published daily in Auburn, Placer County, California.

Nevada City Ranger District: *The Union,* published daily (except Sunday) in Nevada City, Nevada County, California.

Truckee Ranger District: *Sierra Sun,* published weekly in Truckee, Nevada City, Nevada County, California.

Newspaper providing additional notice of Truckee District Ranger decisions: *Tahoe World,* published weekly in Tahoe City, Placer County, California.

Dated: July 7, 2000.

Gilbert J. Espinosa,

Deputy Regional Forester.

[FR Doc. 00–18375 Filed 7–19–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1108]

Grant of Authority for Subzone Status; Premcor Refining Group Inc. (Oil Refinery), Cook County, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, an application from the Illinois International Port District, grantee of FTZ 22, for authority to establish special-purpose subzone status at the oil refinery complex of Premcor Refining Group Inc. (formerly Clark Refining & Marketing, Inc.) in Cook County, Illinois, was filed by the Board on February 2, 1999, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 5–99, 64 FR 6877, 2/11/99; amended, 65 FR 11038, 3/1/00); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application, as amended, would be in the public interest if approval is subject to the conditions listed below;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 22L) at the oil refinery complex of Premcor Refining Group Inc. (formerly Clark Refining & Marketing, Inc.) in Cook County, Illinois, at the locations described in the application, as amended, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000–#2710.00.1050, #.2710.2500 and #2710.0.4510 which are used in the production of:

—petrochemical feedstocks and refinery by-products (examiners report, Appendix ''C'');
—products for export;
—and, products eligible for entry under HTSUS #9808.00.30 and #9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2003, subject to extension.

Signed at Washington, DC, this 11th day of July 2000.

Troy H. Cribb,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 00–18414 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1110]

Approval of Processing Activity Within Foreign-Trade Zone 37, Orange County, New York; Newburgh Dye & Printing, Inc. and Prismatic Dyeing & Finishing, Inc. (Textile Finishing)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the County of Orange, New York, grantee of FTZ 37, and the FTZ of Orange, Ltd., have requested authority under 15 CFR 400.32(b)(1) of the Board's regulations on behalf of Newburgh Dye & Printing, Inc., and Prismatic Dyeing & Finishing, Inc., to process foreign textile products for the U.S. market and export under zone procedures, subject to restriction, within FTZ 37 (filed 4–26–2000, FTZ Docket 15–2000);

Whereas, pursuant to 15 CFR 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed zone benefits being sought do not involve the election of nonprivileged foreign status on foreign textile products (15 CFR 400.32(b)(1)(iii)); and,

Whereas, the application seeks FTZ authority for only the following processes: Dyeing, printing, shrinking, sanferizing, desizing, sponging, bleaching, cleaning/laundering, calendaring, hydroxilating, decatizing, fulling, mercerizing, chintzing, moiring, framing/beaming, stiffening, weighting, crushing, tubing, thermofixing, anti-microbial finishing, shower proofing, flame retardation, and embossing; and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of 15 CFR 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to 15 CFR 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including 15 CFR 400.28, and further subject to the restrictions listed below.

1. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign status fabric admitted to FTZ 37 for the Newburgh Dye & Printing, Inc., and Prismatic Dyeing & Finishing, Inc., activity;

2. No activity under FTZ procedures shall be permitted that would result in a shift in HTSUS classification or a change in textile quota classification or country of origin; and,

3. All FTZ activity shall be subject to Section 146.63(d) of the U.S. Customs Service regulations (19 CFR part 146).

Signed at Washington, DC, this 11th day of July 2000.

Troy H. Cribb,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 00–18415 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (1999) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of July 2000, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings:	
Armenia: Solid Urea*, A–831–801	7/1/99–12/31/99
Azerbaijan: Solid Urea*, A–832–801	7/1/99–12/31/99
Belarus: Solid Urea, A–822–801	7/1/99–6/30/00
Brazil:	
Industrial Nitrocellulose, A–351–804	7/1/99–6/30/00
Brazil:	
Silicon Metal, A–351–806	7/1/99–6/30/00
Chile: Fresh Atlantic Salmon, A–337–803	7/1/99–6/30/00
Estonia: Solid Urea, A–447–801	7/1/99–6/30/00
France: Stainless Steel Sheet and Strip in Coils, A–427–814	1/4/99–6/30/00
Georgia: Solid Urea*, A–833–801	7/1/99–12/31/99
Germany: Industrial Nitrocellulose, A–428–803	7/1/99–6/30/00
Stainless Steel Sheet and Strip in Coils, A–428–825	1/4/99–6/30/00
Iran: In-Shell Pistachio Nuts, A–507–502	7/1/99–6/30/00
Italy: Pasta, A–475–818	7/1/99–6/30/00
Stainless Steel Sheet and Strip in Coils, A–475–824	1/4/99–6/30/00
Japan:	
Cast Iron Pipe Fittings, A–588–605	7/1/99–6/30/00
Clad Steel Plate, A–588–838	7/1/99–6/30/00
Japan: Professional Electric Cutting Tools*, A–588–823	7/1/99–12/31/99
Japan: E L Flat Panel Displays, A–588–817	7/1/99–6/30/00
Japan: High Power Microwave Amplifiers*, A–588–005	7/1/99–12/31/99
Japan: Industrial Nitrocellulose, A–588–812	7/1/99–6/30/00
Japan: Stainless Steel Sheet and Strip in Coils, A–588–845	1/4/99–6/30/00
Japan: Synthetic Methionine*, A–588–041	7/1/99–12/31/99
Kazakhstan: Solid Urea*, A–834–801	7/1/99–12/31/99
Kyrgyzstan: Solid Urea*, A–835–801	7/1/99–12/31/99
Latvia: Solid Urea*, A–449–801	7/1/99–12/31/99
Lithuania: Solid Urea, A–451–801	7/1/99–6/30/00
Mexico: Stainless Steel Sheet and Strip in Coils, A–201–822	1/4/99–6/30/00
Moldova: Solid Urea*, A–841–801	7/1/99–12/31/99
Republic of Korea:	
Industrial Nitrocellulose, A–580–805	7/1/99–6/30/00
Stainless Steel Sheet and Strip in Coils, A–580–834	1/4/99–6/30/00
Romania: Solid Urea, A–485–601	7/1/99–6/30/00
Russia:	
Ferrovanadium and Nitrided Vanadium, A–821–807	7/1/99–6/30/00
Solid Urea, A–821–801	7/1/99–6/30/00
Tajikistan: Solid Urea, A–842–801	7/1/99–6/30/00
Taiwan: Stainless Steel Sheet and Strip in Coils, A–583–831	1/4/99–6/30/00
Thailand:	
Butt-Weld Pipe Fittings, A–549–807	7/1/99–6/30/00
Canned Pineapple, A–549–813	7/1/99–6/30/00
Furfuryl Alcohol**, A–549–812	7/1/99–6/30/00
The People's Republic of China: Butt-Weld Pipe Fittings, A–570–814	7/1/99–6/30/00
Industrial Nitrocellulose, A–570–802	7/1/99–6/30/00
Persulfates, A–570–847	7/1/99–6/30/00
Sebacic Acid, A–570–825	7/1/99–6/30/00
The United Kingdom: Industrial Nitrocellulose, A–412–803	7/1/99–6/30/00
Turkmenistan: Solid Urea, A–843–801	7/1/99–6/30/00
Turkey: Pasta, A–489–805	7/1/99–6/30/00
Ukraine: Solid Urea, A–823–801	7/1/99–6/30/00
Uzbekistan: Solid Urea, A–844–801	7/1/99–6/30/00
Countervailing Duty Proceedings:	
Brazil: Certain Hot-Rolled Carbon Steel Flat Products, C–351–829	1/1/99–12/31/99

	Period
European Economic Community: Sugar, C–408–046	1/1/99–12/31/99
Italy: Pasta, C–475–819	1/1/99–12/31/99
Turkey: Pasta, C–489–806	1/1/99–12/31/99
Suspension Agreements:	
Brazil:	
Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, C–351–829	1/1/99–12/31/99
Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–351–828	1/1/99–12/31/99
Russia: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–821–809	1/1/99–12/31/99

* Order revoked effective 01/01/2000 as a result of sunset review.

** This order is currently undergoing a ''sunset'' review pursuant to section 751(c) of the Act. If, subsequent to publication of this opportunity notice, the order should be revoked pursuant to ''sunset,'' any review (if requested) or automatic liquidation instruction (if no review is requested) will only cover through the last day prior to the effective date of revocation.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2000. If the Department does not receive, by the last day of July 2000, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: July 14, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II, for Import Administration.

[FR Doc. 00–18416 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–819, A–557–810, A–570–859]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rope From India, Malaysia, and the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 20, 2000.

FOR FURTHER INFORMATION CONTACT: James Kemp, Office V, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1276.

Postponement of Preliminary Determinations

The Department of Commerce (the Department) is postponing the preliminary determinations in the antidumping duty investigations of steel wire rope from India, Malaysia, and the People's Republic of China (PRC).

On March 17, 2000, the Department initiated antidumping investigation of steel wire rope from India, Malaysia, the PRC, and Thailand.[1] *See Initiation of Antidumping Duty Investigations: Steel Wire Rope from India, Malaysia, the People's Republic of China, and Thailand,* 65 FR 16173 (March 27, 2000). The notice stated that the Department would issue its prelimiary determinations no later than 140 days after the date of initiation (*i.e.,* August 4, 2000).

On July 7, 2000, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the petitioners) requested that the Department postpone the issuance of the preliminary determinations in these investigations. The petitioners' request for postponement was timely, and the Department finds no compelling reason to deny the request. Therefore, we are postponing the deadline for issuing these determinations until September 25, 2000.

This extension is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: July 13, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–18413 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–DS–M

[1] The International Trade Commission issued a negative preliminary determination in the case involving Thailand, on April 20, 2000. Therefore, that case was terminated.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 063000C]

Availability of a Final Environmental Impact Statement for the Proposed Issuance of Incidental Take Permits to Simpson Timber Company, Northwest Operations, Thurston, Mason, and Grays Harbor Counties, Washington

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a final environmental impact statement.

SUMMARY: This notice announces the availability of a Final Environmental Impact Statement (Statement) for public review. The Statement addresses the proposed issuance of Incidental Take Permits (Permits) to Simpson Timber Company, Northwest Operations (Simpson), for forest management and timber harvest on their lands in Thurston, Mason, and Grays Harbor Counties, Washington. Simpson submitted applications on September 29, 1999, to the Fish and Wildlife Service and the National Marine Fisheries Service (together, the Services) for Permits pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed Permits would authorize take of the following endangered or threatened species incidental to otherwise lawful management activities: marbled murrelet (*Brachyramphus marmoratus marmoratus*), bald eagle (*Haliaeetus leucocephalus*), Puget Sound chinook salmon (*Oncorhynchus tshawytscha*), Hood Canal summer run chum salmon (*Oncorhynchus keta*), and bull trout (*Salvelinus confluentus*). Simpson is also seeking coverage for 47 currently unlisted species under specific provisions of the Permits, should these species be listed in the future. The duration of the proposed Permits is 50 years. This notice is provided pursuant to the Act, and National Environmental Policy Act regulations.

ADDRESSES: Requests for the documents should be made by calling the U.S. Fish and Wildlife Service at (360)534–9330. Copies are also available for viewing, or partial or complete duplication, at the following libraries: Olympia Timberland Library, Reference Desk, 313 8th Avenue SE, Olympia, WA, (360)352–0595; William G. Reed Library, Reference Desk, 710 West Alder Street, Shelton, WA, (360)426–1362; Hoodsport Timberland Library, 40 North Schoolhouse Hill Road, Hoodsport, WA, (360)877–9339; Elma Timberland Library, Information Desk, 118 North 1st Street, Elma, WA, (360)482–3737; W.H. Abel Public Library, Information Desk, 125 Main Street South, Montesano, WA, (360)249–4211; and, Aberdeen Timberland Library, Reference Desk, 121 East Market Street, Aberdeen, WA, (360)533–2360.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term take is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm is defined to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering.

The Services may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. U.S. Fish and Wildlife Service regulations governing permits for endangered species are promulgated in 50 CFR 17.22; and, regulations governing permits for threatened species are promulgated in 50 CFR 17.32. National Marine Fisheries Service regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307. A permit decision will occur, and a Record of Decision will be published, no sooner than 30 days from this notice.

Background

Simpson owns and manages approximately 261,575 acres of commercial timberland in Thurston, Mason and Grays Harbor counties, Washington. These properties are located from just south of Highway 8, north into the southern foothills of the Olympic Mountains, and west across the Wynoochee River valley to the City of Aberdeen's Wishkah watershed. Management activities on the tree farm include forest management and timber harvest.

Some forest management and timber harvest activities have the potential to impact species subject to protection under the Act. Section 10 of the Act contains provisions for the issuance of Permits to non-Federal land owners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities, and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the landowner or permit applicant must prepare and submit to the Services for approval, a Habitat Conservation Plan (Plan) containing a strategy for minimizing and mitigating all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

Simpson has developed a Plan with technical assistance from the Services, to obtain Permits for their activities on the subject lands. Activities proposed for this Permit include the following: all aspects of mechanized timber harvest, log transportation, road construction, road maintenance and abandonment, site preparation, tree planting, fertilization, silvicultural thinning, experimental silviculture, controlled burns, wild fire suppression, stream restoration, and the management, harvest, and sale of minor forest products. The Permits and Plan would also cover certain monitoring activities and related scientific experiments in the Plan area. The duration of the proposed Permits and Plan is 50 years.

As an additional measure, Simpson worked with the Environmental Protection Agency and the Washington Department of Ecology to prepare a Total Maximum Daily Load (TMDL) for heat energy to streams. The TMDL was developed to address general and specific water quality concerns within the Action Area, to recognize efforts to meet expectations under the Clean Water Act for protection of beneficial uses, and to provide an additional level of technical rigor that increases the Services assurances about water quality for covered species. The TMDL addresses heat energy delivery to waters in the Plan Area, employing sediment as an ''other measure as appropriate'' along with shade to assess the effectiveness of land management activities with respect to water quality. Both heat energy and sediment are water quality parameters that affect aquatic life, including salmon and other fishes. Although neither the Plan or TMDL are legally dependant on the other, much of the information and analysis developed for the preparation of the Plan was used in developing the TMDL. The primary link between the Plan and TMDL is that sediment and heat load allocations will serve as benchmarks to assess attainment and progress towards water quality in the adaptive management program set forth

in the Plan. The TMDL Technical Assessment Report is included as an appendix to the Plan.

The Services formally initiated an environmental review of the project through a Notice of Intent to prepare a Statement in the Federal Register on February 9, 1999 (64 FR 6325). This notice also announced a 30-day public scoping period, during which other agencies, tribes, and the public were invited to provide comments and suggestions regarding issues and alternatives to be included in the Statement. A draft Statement was subsequently produced and made available for a 62-day public review period on October 22, 1999 (64 FR 57630). Comments received on the draft Statement and responses to those comments are included in the final Statement.

The final Statement fully analyzes a No Action alternative, the Proposed Action, a Forests and Fish Report Alternative, and a Modified Northwest Forest Plan Alternative. Under the No Action Alternative, incidental take permits would not be issued and Simpson would continue a forest management program which avoids take of federally listed species. Under the Forests and Fish Report Alternative incidental take permits would not be issued and Simpson would conduct forest management according to the proposed revisions to the Washington State Forest Practices Act, and avoid take of federally listed species. Under the Proposed Action, the Services would issue Incidental Take Permits and Simpson would implement their proposed Plan on 261,575 acres of Simpson's Washington timberlands. Under a Modified Northwest Forest Plan Alternative, the Services would issue Incidental Take Permits, and Simpson would implement a Plan with riparian conservation measures providing protective buffers approximately mid-way between the buffers provided by the Northwest Forest Plan and the Proposed Action. Current Washington Forest Practices would be applied where Northwest Forest Plan guidelines are not available.

Dated: June 27, 2000.

Don Weathers,

Acting Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: July 14, 2000.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–18418 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–22–F, 4310–55–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071300A]

Marine Mammals; File No. 526–1523

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Allied Whale, College of the Atlantic,105 Eden Street, Bar Harbor, ME 04609–1198 (Principal Investigator: Sean K. Todd, Ph.D) has been issued a permit to take humpback (*Megaptera novaeangliae*), finback (*Balaenoptera physalus*) and minke (*B. acutorostrata*) whales for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930 (978/281–9138).

FOR FURTHER INFORMATION CONTACT: Simona Roberts or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On April 13, 2000, notice was published in the **Federal Register** (62 FR 19877) that a request for a scientific research permit to take humpback *(Megaptera novaeangliae*), finback (*Balaenoptera physalus*) and minke (*B. acutorostrata*) whales had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 14, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–18419 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.062700B]

Marine Mammals; Permit No. 455–1445

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Denial of permit amendment.

SUMMARY: Notice is hereby given that a request for a scientific research permit amendment [No. 455–1445] submitted by Waikiki Aquarium has been denied.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Pacific Islands Area Office, Southwest Region, NMFS,1601 KAPIOLANI BLVD, RM 1110, HONOLULU, HI 96814–4700 (808)973–2935 x210).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Simona Roberts, 301/713–2289.

SUPPLEMENTARY INFORMATION: On March 14, 2000, notice was published in the **Federal Register** (65 FR 13723) that an application to amend Permit 455–1445 had been filed by the above named organization. The requested permit has been denied subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Scientific research and enhancement permit No. 455–1445 was issued on May 26, 1998. The Permit authorizes Waikiki to maintain and care for three male Hawaiian monk seals (*Monachus*

schauinslandi) for enhancement purposes, and to make them available for scientific research. Research project I involves assessing the efficiency with which seals assimilate and metabolize amino acids and fatty acids from common prey types, and elucidating and monitoring how reproductive and metabolic activity of male Hawaiian monk seals are related. Dr. Shannon Atkinson is the principal researcher/co-investigator for this project is.

The permit holder requested authorization to amend the Permit to allow training of seals to accept a rectal temperature probe to take daily temperature measurements. The purpose of the research is to establish baseline temperatures as a diagnostic tool, and use the values to calculate heat transfer budgets for seals as part of a master's thesis conducted under the advisement of Dr. Shannon Atkinson. The application did not contain sufficient information for NMFS to determine that the research was bona fide.

Dated: July 17, 2000.

Ann D. Terbush,

Chief, Permits and Documentation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–18420 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of Currently Approved Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. This form is available in alternate formats. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–5256 between the hours of 9 a.m. and 4:30 p.m. Eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning the revision of its AmeriCorps*VISTA Alumni Locator Card (OMB Control Number 3045–0048, with an expiration date of 08/31/2000). Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by September 18, 2000.

ADDRESSES: Send comments to the Corporation for National and Community Service, AmeriCorps*VISTA, Attn: Michael Wagner, 1201 New York Avenue, N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Michael Wagner, (202) 606–5000, ext. 316, or e-mail to mwagner@cns.gov.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Background

The Corporation proposes to send out AmeriCorps*VISTA Alumni Locator Cards to former AmeriCorps*VISTA members' home addresses requesting that they complete the card and return it to the AmeriCorps*VISTA Program Office. The card will be used by Corporation personnel and other organizations (only with the explicit written permission of the respondent). The purpose of the card is to enhance communications between the Corporation and former AmeriCorps*VISTA members to provide them with information on Corporation activities, and to seek their assistance in volunteer recruitment activities.

Current Action

The Corporation proposes to revise the AmeriCorps*VISTA Alumni Locator Card by deleting unused information from the existing version of the card, such as removing one of the AmeriCorps*VISTA project site fields and collecting the following data from the former member:

- The exact dates of service from the person filling out the AmeriCorps*VISTA Alumni Locator Card.
- The name of the VISTA project.
- The geographical location of the project (city and state).

The Corporation also proposes to revise the AmeriCorps*VISTA Alumni Locator Card by requesting the ''e-mail address'' of former members to provide a more inexpensive and faster way to communicate and share information.

The Corporation also proposes to revise the AmeriCorps*VISTA Alumni Locator Card by seeking consent to release contact information, including a former member's name, address (including e-mail), and telephone number to the following groups:

1. Alumni Organizations.
2. Educational organizations that can accept the AmeriCorps education award.
3. Service organizations.

Further, the Corporation proposes to revise the AmeriCorps*VISTA Alumni Locator Card by asking former members to identify his or her involvement with the Corporation or community.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps*VISTA Alumni Locator Card. (Previously named the AmeriCorps*VISTA Locator Card.)

OMB Number: 3045–0048.

Agency Number: None.

Affected Public: Individuals and households.

Total Respondents: 6,000.

Frequency: Continuous.

Average Time Per Response: 2 minutes.

Estimated Total Burden Hours: 200 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 16, 2000.

Matt B. Dunne,

*Director, AmeriCorps*VISTA.*

[FR Doc. 00–18346 Filed 7–19–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Exclusive License; Dow Chemical Company

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant Dow Chemical Company, a revocable, nonassignable, exclusive license in the United States to practice the Government-Owned inventions described in:

U.S. Patent Number 4,911,902 Mullite Whisker Preparation and U.S. Patent Number 4,948,766 Rigid Mullite Whisker Felt and Method of Preparation.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than September 18, 2000.

ADDRESSES: Written objections are to be filed with Carderock Division, Naval Surface Warfare Center, Code 004, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director Technology Transfer, Carderock Division, Naval Surface Warfare Center, Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700, telephone (301) 227–4299.

Dated: July 11, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–18340 Filed 7–19–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Non-Exclusive, Partially Exclusive, or Exclusive Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404, announcement is made of the availability of Navy patent #5,520,331 entitled ''Liquid Atomizing Nozzle'', for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Navy, Washington, DC.

This patent covers a convergent/divergent gas nozzle, which atomizes a liquid provided through a delivery tube, providing an extremely fine mist having a high momentum. The nozzle is particularly well suited to fire extinguishment.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and Section 207 of Title 35, United States Code, the Department of the Navy, as represented by the Naval Air Warfare Center, wishes to license the patent in a non-exclusive, exclusive, or partially exclusive manner to a party interested in manufacturing, using, and/or selling devices or processes involved in this patent.

FOR FUTHER INFORMATION CONTACT: Hans Kohler Business Development Office NAWCAD Lakehurst, New Jersey 08733, phone (732) 323–2948, E-mail: kohlerhk@navair.navy.mil.

Dated: July 11, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–18339 Filed 7–19–00; 8:45 am]

BILLING CODE 3510–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, July 26, 2000. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, New Jersey.

The conference among the Commissioners and staff will begin at 10:30 a.m. It will include a presentation by Delaware Water Coordinator Gerald Kauffman on an integrated resource plan to address water supply problems in New Castle County, Delaware. Summaries of the following four meetings also will be offered: June 26 meeting on the Estuary PCB Monitoring Plan; July 13 meeting of the Water Management Advisory Committee; and July 20 meetings of the Toxics Advisory Committee and Flow Management Technical Advisory Committee. A brief account of briefings on the Christina River TMDL also will be provided.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting will include, in addition to the dockets listed below, a proposed Resolution concerning the control of certain toxic substances, including PCBs, in the Delaware Estuary.

The dockets scheduled for public hearing are as follows:

1. *Village of Deposit D–99–64 CP.* An application for approval of a ground water withdrawal project to supply up to 5.4 million gallons (mg)/30 days of water to the applicant's distribution system from new Well No. 5 in the West Branch Delaware River watershed, and to increase the existing withdrawal limit from all wells from 15 mg/30 days to 30 mg/30 days. The project is located in the Village of Deposit, Delaware County, New York.

2. *Borough of Dublin D–2000–11 CP.* An application for approval of an increase in ground water withdrawal allocation from 4.36 mg/30 days to 6.9 mg/30 days for the applicant's public water distribution system from existing Wells Nos. 1, 2, 3 and 5 in the mixed zone of the Lockatong and Brunswick Formations. The project is located in Dublin Borough, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

3. *Little Washington Treatment Company D–2000–24.* An application to upgrade and expand the applicant's Willistown Woods (formerly Chesterdale) sewage treatment plant (STP) from 0.12 million gallons per day (mgd) advanced secondary treatment to 0.225 mgd tertiary treatment. The STP is located just south of State Route 3 in Willistown Township at its border with Westtown Township, both in Chester County, Pennsylvania, and will continue to serve portions of Willistown and Westtown Townships. Treated effluent will continue to discharge to a tributary of Hunters Run in the Ridley Creek watershed.

4. *Dennis C. Christman D–2000–42.* An application to construct a 0.08 mgd STP to replace failing on-lot septic systems at the applicant's Christman Lake development located off Christman Road (Township Route 771) in Windsor Township, Berks County, Pennsylvania. The proposed plant is designed to provide secondary treatment via the

sequencing batch reactor process. Treated effluent will discharge to a marsh area that flows 120 feet directly to an unnamed tributary of Maiden Creek in the Schuylkill River watershed.

In addition to the public hearing, the Commission will address the following at its 1:30 p.m. business meeting: minutes of the June 16, 2000 business meeting; announcements; report on hydrologic conditions in the basin; and reports of the Executive Director and General Counsel.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Secretary at (609) 883–9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at (609) 883–9500 ext. 203 or through the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission may accommodate your needs.

Dated: July 11, 2000.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 00–18376 Filed 7–19–00; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 21, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wai-Sinn Chan, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Wai-Sinn_L._Chan@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 17, 2000.

Joseph Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: National Evaluation of GEAR UP.

Frequency: Monthly, Annually, Weekly.

Affected Public: Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 11,565; Burden Hours: 3,981.

Abstract: The evaluation responds to the legislative requirement in Public Law 105–244, Section G to evaluate and report on the effectiveness of projects funded under the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) program. Students' and parents' expectations for postsecondary education, their knowledge of the academic preparation needed and availability of financial resources, and students' academic performance will be compared over time for students in schools participating in GEAR UP and in schools not receiving GEAR UP services. Outcomes for GEAR UP participants will be analyzed by type and intensity of service.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–18387 Filed 7–19–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. PP–197, DOE/EIS–0307]

Notice of Reopening Scoping Period and Schedule for Public Scoping Meetings; Public Service Company of New Mexico

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that it is reopening the scoping period and will hold additional public scoping meetings for the environmental impact statement (DOE/EIS–0307) that is being prepared in connection with an application for a Presidential permit filed by Public Service Company of New Mexico (PNM). PNM has applied for a Presidential permit to construct electric transmission lines across the U.S.-Mexican border. An EIS is being prepared because DOE has determined that the issuance of the Presidential permit would constitute a major Federal action that may have a significant impact upon the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). The purpose of this notice is to open a new scoping period to obtain comments on two additional alternative transmission corridors that have been identified. One of these new corridors has been designated by PNM as its ''preferred alternative.''

DATES: DOE invites interested agencies, organizations, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues not

previously identified and in determining the appropriate scope of the EIS. This new scoping period starts with the publication of this notice in the **Federal Register** and will continue until September 8, 2000. Written and oral comments will be given equal weight, and DOE will consider all comments received or postmarked by September 8, 2000, in defining the scope of the EIS. Comments received or postmarked after that date will be considered to the extent possible.

Dates, times, and locations for the public scoping meetings are:

1. August 22, 7 p.m., Rio Rico Resort, 1069 Camino Caralampi, Rio Rico, Arizona.

2. August 23, 7 p.m., Presidio Plaza Hotel (formerly Holiday Inn City Center), 181 W. Broadway Boulevard, Tucson, Arizona.

Requests to speak at a public scoping meeting(s) should be received by the NEPA Document Manager, Mrs. Ellen Russell, at the address indicated below on or before August 18, 2000. Requests to speak may also be made at the time of the scoping meeting(s). However, persons who submitted advance requests to speak will be given priority if time should be limited during the meeting.

ADDRESSES: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting(s) should be addressed to: Mrs. Ellen Russell, NEPA Document Manager, Office of Fossil Energy (FE–27), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585–0350; phone 202–586–9624, facsimile: 202–287–5736, or by electronic mail at Ellen.Russell@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: For information on the proposed project or to receive a copy of the Draft EIS when it is issued, contact Mrs. Russell at the address listed in the **ADDRESSES** section of this notice.

For general information on the DOE NEPA review process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0119; Phone: 202–586–4600 or leave a message at 800–472–2756; Facsimile: 202–586–7031.

SUPPLEMENTARY INFORMATION: Executive Order 10485, as amended by Executive Order 12038, requires that a Presidential permit be issued by DOE before electric transmission facilities may be constructed, connected, operated, or maintained at the U.S. international border. The Executive Order provides that a Presidential permit may be issued after a finding that the proposed project is consistent with the public interest. In determining consistency with the public interest, DOE considers the impacts of the project on the reliability of the U.S. electric power system and on the environment. The regulations implementing the Executive Order have been codified at 10 CFR §§ 205.320–205.329. Issuance of a Presidential permit does not mandate that the project be completed; in fact, prior to construction, the recipient must obtain approval from all other Federal, state and local authorities with jurisdiction over the project.

On December 28, 1998, PNM filed an application for a Presidential permit with the Office of Fossil Energy of DOE. PNM proposed to construct up to two transmission lines on a single right-of-way extending approximately 140 to 230 miles from the electric switchyard near the Palo Verde Nuclear Generating Station, located approximately 30 miles west of Phoenix, Arizona, to the U.S.-Mexico border in the vicinity of the western boundary of the Tohono O'odham Nation, Nogales, or Sasabe, Arizona. South of the border, PNM would extend the line(s) approximately 60 to 120 miles to the Santa Ana Substation, located in the City of Santa Ana, Sonora, Mexico, and owned by the Comision Federal de Electricidad (CFE), the national electric utility of Mexico. In its application for a Presidential permit, PNM identified three alternative corridors for construction of the cross-border transmission lines. These corridors, Alternatives 1, 2 and 3, were the subject of public meetings conducted in Nogales, Tucson, Patagonia, Sells, Ajo, Gila Bend, and Casa Grande, Arizona, in March 1999, during a scoping period that extended from February 12 to April 14, 1999 (64 FR 7173, February 12, 1999, and extended by 64 FR 13553, March 19, 1999). Later, three additional alternative corridors (Alternatives 4, 5, and 6) were developed and were the subject of public meetings conducted in Green Valley, Tubac, Sasabe, Three Points (Robles Junction), and Tucson in June 1999, during a second scoping period that extended from June 10 to July 14, 1999 (64 FR 31204, June 10, 1999).

On June 18, 2000, PNM submitted a letter to DOE in which it:

1. Amended its application to include two additional alternative corridors (Alternatives 7 and 8) and identified Alternative 7 as its ''preferred alternative'';

2. Notified DOE that it prefers to construct the transmission lines as alternating current (AC) lines rather than direct current (DC) lines; and,

3. Notified DOE that it was in discussions with Citizens Utilities of Nogales, Arizona, regarding the potential for providing back-up electrical service to the utility.

Selection of the AC option would require construction of a back-to-back AC/DC/AC converter station inside the U.S. in the vicinity of the border. If power is supplied to Citizens Utilities in the Nogales area, the ''step-down'' equipment also would be installed within the confines of this converter station. The AC transmission line(s) would be operated at 345 kV inside the U.S. and at 230 kV between the converter station and CFE's Santa Ana Substation. Use of the AC option means that two electrical circuits would be required. In some locations, both circuits would be installed on the same set of support structures. In other areas, two separate sets of support structures would be required with the need for a wider right-of-way. Each line would have an electrical transfer capability of approximately 400 megawatts (MW). If the AC option is not selected, PMN likely would not provide electrical service to Citizens Utilities.

The EIS is being prepared to satisfy the environmental review requirements of any Federal agency having jurisdiction over the proposed project or any segment of it. Potential Federal cooperating agencies include the U.S. Departments of Agriculture (including the U.S. Forest Service), Interior (including the Bureau of Land Management, Bureau of Indian Affairs and the Fish and Wildlife Service), and State (including the International Boundary and Water Commission).

Description of New Alternatives

Alternative 7 (PNM Preferred Alternative)—This alternative corridor extends southeasterly from the electrical switchyard adjacent to the Palo Verde Nuclear Generating Station (PVNGS), approximately three miles north of Red Rock, Arizona. From this point, the line continues in a southeasterly direction, following highway I–10 and existing electric transmission and natural gas pipelines until approximately Marana. At Marana, this alternative corridor turns south, largely running parallel to an existing powerline corridor approximately eight miles west of Saguaro National Park. Near Orange Grove Road, the corridor turns east until it intersects with a current gas pipeline that runs southeast. It follows the pipeline until it approaches the Central

Arizona Project (CAP) where it follows the CAP around the Garcia Strip of the Tohono O'odham Nation. It then heads southwest over Sandario Road and turns due south. Near the existing Bicknell substation, this proposed corridor turns due south following a gas pipeline through the copper mines and west of the mine residue piles that border Green Valley. The corridor would follow the pipeline until a point just north of Arivaca Road (near Amado) where the corridor would head due east, cross I–19, and cross to the east of the existing 115-KV line owned by Citizens Utilities. The corridor would then run south, paralleling the Citizen's line past Tubac and Tumacacori National Historic Park and then head west again, recrossing I–19. The corridor then rejoins the pipeline corridor and follows it through Coronado National Forest until west of Nogales where it crosses the U.S.-Mexico border. If PNM provides service to Citizens Utilities, a converter station and step down substation would be constructed in the vicinity of Nogales.

Alternative 8—This alternative corridor is almost identical to Alternative 7. It differs from Alternative 7 in only one area. North of Arivaca Road (near Amado) this corridor proceeds due south (where Alternative 7 turns east) and continues to parallel the existing gas pipeline to Coronado National Forest, then through the forest, and crosses the border west of Nogales.

A description of alternative transmission corridors 1 thru 6 can be found in the **Federal Register** notice for the second scoping period, referenced above. This notice can be accessed from the project web site maintained for DOE by Battelle Memorial Institute at *http://projects/battelle.org/pnmeis/*. In addition, from this site, interested persons can download the PNM Presidential permit application as well as the project fact sheet, maps, verbatim transcripts from previous scoping meetings, and other project-related information.

Scoping Process

Interested parties are invited to participate in the scoping process. Public scoping meetings will be held at the locations, dates, and times indicated above under the **DATES** and **ADDRESSES** sections. These scoping meetings will be informal. The DOE presiding officer will establish only those procedures needed to ensure that everyone who wishes to speak has a chance to do so and that DOE understands all issues and comments. Speakers will be allocated approximately 10 minutes for their oral statements. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings, but advance requests are encouraged. Should any speaker desire to provide for the record further information that cannot be presented within the designated time, such additional information may be submitted in writing by the date listed in the **DATES** section. Both oral and written comments will be considered and given equal weight by DOE. Oral and written comments previously submitted on Alternatives 1 through 6 have been entered in the official record of this proceeding and need not be resubmitted.

Issued in Washington, DC on July 14, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–18438 Filed 7–19–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–233–002]

Midwestern Gas Transmission Company; Notice of Compliance Filing

July 14, 2000.

Take notice that on July 7, 2000, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Substitute Fourth Revised Sheet No. 90 and Second Substitute Second Revised Sheet No. 98. Midwestern requests an effective date of May 1, 2000.

Midwestern states that this filing is in compliance with the Commission's June 28, 2000 Letter Order in the above-referenced docket (June 28 Order). Midwestern Gas Transmission Company, 91 FERC ¶ 61,299 (2000). Midwestern further states that the June 28 Order required Midwestern to file revised tariff language to clarify the requirements of the waiver set forth in 18 CFR 284.8(i) of the Commission's regulations.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 first Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18306 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–384–000]

Overthrust Pipeline Company; Notice of Tariff Filing

July 14, 2000.

Take notice that on July 12, 2000, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective March 26, 2000:

Fifth Revised Sheet No. 4
Fourth Revised Sheet No. 5
Third Revised Sheet No. 47
Sixth Revised Sheet No. 48
Sixth Revised Sheet No. 49
Fifth Revised Sheet No. 49A
Second Revised Sheet No. 49B
Original Sheet No. 49C
Fourth Revised Sheet No. 51
Third Revised Sheet No. 52
Third Revised Sheet No. 52A
Original Sheet No. 52B

On February 9, 2000, and May 19, 2000, the Commission issued Order No. 637 and 637–A, respectively, in Docket Nos. RM98–10 and RM98–12 requiring pipeline companies to, among other things, waive the price ceiling for short-term capacity-release transactions. The filing reflected modifications in Overthrust's tariff to incorporate this requirement.

Overthrust states that a copy of this filing has been served upon it customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18333 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3105–000]

PJM Interconnection, L.L.C.; Notice of Filing

July 14, 2000.

Take notice that on July 11, 2000, PJM Interconnection, L.L.C. (PJM), submitted for filing an amended unexecuted interconnection service agreement between PJM and Statoil Energy/Paxton, L.P. to reflect the amount of the Attachment Facilities Charge.

PJM requests a waiver of the Commission's 60-day notice requirement and an effective date of July 12, 2000.

Copies of this filing were served upon Statoil Energy/Paxton, L.P. and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 1, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18298 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–383–000]

Questar Pipeline Company; Notice of Tariff Filing

July 14, 2000.

Take notice that on July 10, 2000, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective March 26, 2000:

Fourteenth Revised Sheet No. 5
Twelfth Revised Sheet No. 5A
Ninth Revised Sheet No. 6
Eighth Revised Sheet No. 6A
Fourth Revised Sheet No. 58
Sixth Revised Sheet No. 59
Sixth Revised Sheet No. 60
Second Revised Sheet No. 60B
Fourth Revised Sheet No. 62
Fourth Revised Sheet No. 63
Second Revised Sheet No. 64
Original Sheet No. 64A
Fifth Revised Sheet No. 163
Fifth Revised Sheet No. 164

On February 9, 2000, and May 19, 2000, the Commission issued Order Nos. 637 and 637–A, respectively, in Docket Nos. RM98–10 and RM98–12 requiring pipeline companies to among other things, waive the price ceiling for short-term capacity-release transactions. This filing reflects revisions in Questar's tariff to incorporate this requirement with the clarifications added by Order 637–A.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18332 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–274–001]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 14, 2000.

Take notice that on July 11, 2000, Reliant Energy Gas Transmission Company (REGT), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 2000.

Second Revised Sheet No. 1
First Revised Sheet No. 59
Original Sheet No. 70
Original Sheet No. 71
Original Sheet No. 72
Original Sheet No. 73
Original Sheet No. 74
Original Sheet No. 75
Original Sheet No. 76
First Revised Sheet No. 286
Second Revised Sheet No. 289
First Revised Sheet No. 290

REGT states that the filing is being made in compliance with the Commission's order issued June 28, 2000 in Docket No. RP00–274–000 (Order).

REGT states that the filing implements the pro forma tariff sheets applicable to Rate Schedule ANS (AutoNom Service). REGT also states that in compliance with the Order these tariff sheets incorporate an alternative provision affording the use of an AutoNom Service to split-connect end users as well as single-connect end users.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18307 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–401–000]

Suprex Energy Corporation; Notice of Application For Presidential Permit and Natural Gas Act Section 3 Authorization

July 14, 2000.

Take notice that on July 7, 2000, Suprex Energy Corporation (Suprex Energy) 435–4th Avenue S.W., Suite 450, Calgary, Alberta T2P 3A8, filed an application in Docket No. CP00–401–000 seeking a Presidential Permit, pursuant to Executive Orders Nos. 10485 and 12038, and a Natural Gas Act Section 3 authorization, pursuant to Part 153 of the Commission's Regulations, all as more fully described in Suprex Energy's application. The details of Suprex Energy's application are set forth in its application, which is on file with the Commission and open to public inspection.

The text of this application may also be viewed at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for help). Any initial questions regarding the application should be directed to Nello W. Marano, the company President, at the above address or by phone at (403) 294–1454.

Suprex Energy seeks authority to site, construct, operate, maintain, and connect pipeline facilities at the International Boundary between the United States and Canada in Toole County, Montana, for purposes of importing unprocessed natural gas into the United States from Canada. Suprex Energy currently an owner of a natural gas gathering system in the Province of Alberta. Suprex Energy proposes to construct certain natural gas gathering and metering facilities in Alberta near the International Boundary. It proposes to construct a 2,543 feet, 6-inch diameter pipeline extending directly south from the metering station and across the Canada-United States border at Section 6 T37N R3W in the Toole County. The distance of Suprex Energy's 6-inch diameter pipeline in the United States will be 30 feet. This 30 foot section of pipeline will connect with a new 6-inch diameter gathering pipeline to be constructed by Suprex Energy Inc. (SEI), a Montana incorporated company that is a wholly owned subsidiary of Suprex Energy Corporation.

The purpose of the project is to gather and transport shut-in, unprocessed natural gas from natural gas wells in the Coutts Red Coulee area of Alberta, across the International Boundary to eventually be delivered to the existing gas gathering system owned and operated by the Montana Power Gas Company in the Border Field area of northern Montana which has available gas processing capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 4, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214, and the Commission's Regulations under the Natural Gas Act, 18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules of Practice and Procedure.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3 and 15 of the Natural Gas Act and the Commission Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Coral Mexico to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18300 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–229–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

July 14, 2000.

Take notice that on July 7, 2000, Tennessee Gas Pipeline Company (Tennessee), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1: The following revised tariff sheets, with a proposed effective date of May 1, 2000:

Second Substitute Fifth Revised Sheet No. 329
Second Substitute Third Revised Sheet No. 336
Second Substitute Second Revised Sheet No. 342A
Second Substitute Fifth Revised Sheet No. 347

Tennessee states that this filing is in compliance with the Commission's June 28, 2000 Letter Order in the above-referenced docket. *Tennessee Gas Pipeline Co.,* 91 FERC ¶ 61,298 (2000). Tennessee states that the June 28, 2000 Letter Order required Tennessee to file revised tariff language to change all reference in the tariff's capacity release terms of ''more than one year'' to ''one year or more'' and to clarify the requirements of the waiver set forth at Commission regulation 18 CFR 284.8(i) (2000).

Tennessee states that a copy of this filing has been served on all parties who intervened in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission' Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18305 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–009]

TransColorado Gas Transmission Company; Notice of Tariff Filing

July 14, 2000.

Take notice that on July 11, 2000, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Ninth Revised Sheet No. 21 and Fifth Revised Sheet No. 22, to be effective July 11, 2000.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets revised TransColorado's Tariff to implement an amended negotiated-rate interruptible transportation service agreement between TransColorado and Burlington Resources Trading, Inc. TransColorado requested waiver of 18 CFR 154.207 so that the tendered tariff sheets may become effective July 11, 2000.

TransColorado states that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and New Mexico Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18304 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. ER00–3106–000]

Wisvest-Connecticut, LLC; Notice of Application

July 14, 2000.

Take notice that on July 11, 2000, Wisvest-Connecticut, LLC (Wisvest-Connecticut) submitted to the Commission for filing copies of an executed long-term service agreement with Select Energy, Inc.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 1, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18299 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2169–013 North Carolina—Tennessee]

Alcoa Power Generating, Inc.; Notice of Availability of Draft Environmental Assessment

July 14, 2000.

A draft environmental assessment (EA) is available for public review. The EA analyzes the environmental effects of a request to amend the license to authorize upgrades of turbines and generators at three of the four developments of the Tapoco Hydroelectric Project located on the Little Tennessee and Cheoah Rivers, in Graham and Swain Counties, North Carolina, and Blount and Monroe Counties, Tennessee. The project utilizes approximately 370 acres Nantahala National Forest lands. The Tapoco Hydroelectric Project includes the following reservoirs: Santeetlah, Cheoah, Calderwood, and Chilhowee.

The EA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. The proposed upgrade would not constitute a major federal action significantly affecting the quality of the human environment. Copies of the EA can be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. Copies are also available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371.

Anyone may file comments on the EA. The public, federal and state resource agencies are encouraged to provide comments. All written must be filed within 30 days of the issuance date of this notice shown above. Send an original and eight copies of all comments marked and with the project number P–2169–013 to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. If you have any questions regarding this notice, please contact R. Feller at telephone: (202) 219–2796 or e–mail: *rainer.feller@ferc.fed.us*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18301 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visits and Soliciting Scoping Comments

July 14, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: A New Major License.

b. Project No.: 2042–013.

c. Date filed: January 21, 2000.

d. Applicant: Public Utility District No. 1 of Pend Oreille County.

e. Name of Project: Box Canyon Hydroelectric Project.

f. Location: On the Pend Oreille River, in Pend Oreille County, Washington and Bonner County, Idaho. About 709 acres within the project boundary are located on lands of the United States, including Kalispel Indian Reservation (493 acres), U.S. Forest Service Colville National Forest (182.93 aces), U.S. Department of Energy, Bonneville Power Administration (24.14 acres), U.S. Fish and Wildlife Service (2.45 acres), U.S. Army Corps of Engineers (5.29 acres), and U.S. Bureau of Land Management (1.44 acres).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Robert Geddes, Public Utility District No. 1 of Pend Oreille County, P.O. Box 190, Newport, WA 99156; (509) 447–3137.

i. FERC Contact: Mr. Timothy J. Welch, *Timothy.Welch@FERC.FED.US* or telephone (202) 219–2666.

j. Deadline for filing scoping comments is 60 days from the date of this Notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of the Project: The Box Canyon Project is located in the northeast corner of Washington state in Pend Oreille County. The project dam is located at river mile 34.4 from the Pend Oreille River's confluence with the Columbia River. The site is 13 miles from the Canadian border, 14 miles from the Idaho border, and 90 miles north of city of Spokane, WA. The existing Box Canyon Project consists of: (1) 46-foot-high, 160-foot-long reinforced concrete dam with integral spillway, (2) 217-foot-long, 35-foot-diameter diversion tunnel, (3) 1,170-foot-long forebay channel, (4) auxiliary spillway, (5) powerhouse containing four generating units with a combined capacity of 72 MW, (6) 8,850-acre reservoir at maximum operating pool elevation of 2030.6 feet, and other associated facilities. PUD No. 1 operates the project in a run-of-river mode.

PUD No. 1 proposes to upgrade all four turbines with new high efficiency, fish-friendly runners and to rewind the four generators to increase generating capacity to 90 MW. No new structures will be built and no construction in the river will be required. No operational changes will be needed although peak flow through each turbine will be increased from 6,850 cfs to 8,100 cfs which will ultimately result in an 8% increase in average annual energy output.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm [or call (202) 208–2222 for assistance]. A copy is also available for inspection and reproduction at the address in item h. above.

n. Scoping Process.

The Commission intends to prepare an Environmental Impact Statement (EIS) for the proposed relicensing of the Box Canyon Hydroelectric Project (FERC No. 2042–013) The EIS will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

The Commission will hold two scoping meetings, one in the afternoon and one in the evening, to help identify the scope of the issues to be addressed in the EIS. The afternoon meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations and agencies are invited to attend one or both meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EIS. The times and locations of these meetings are as follows:

Afternoon Meeting: August 14, 2000, 2:00 p.m., Airport Ramada Inn, Spokane International Airport, Spokane, WA, (509) 838–5211.

Evening Meeting: August 16, 2000, 7:00 p.m., Newport High School, 1400 West 5th Street, Newport, WA, (509) 447–3167.

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EIS, to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

The PUD and the Commission staff will conduct a project site visit in two segments on August 15 and August 16, 2000. On the first day we will meet at 8:30 am in the parking lot of the Pend Oreille PUD No. 1 at 130 North Washington St., Newport. The second day we will meet at Box Canyon Dam at 8:30 am. Site visitors will be transported by bus through the project area. If you would like to attend, please contact Mark Cauchy at (509) 447–9331 no later than August 8, 2000.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EIS, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in EIS; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceedings for this project.

Individuals, organizations and agencies with environmental expertise and concerns are encouraged to attend the meetings to assist the staff in defining and clarifying the issues to be addressed in the EIS.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18302 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

July 14, 2000.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No: 8436–118.

Date Filed: June 8, 2000.

Applicants: Smith Falls Hydropower and Eugene Water and Electric Board.

e. Name of Project: Smith Creek.

f. Location: The project is located on Smith Creek, a tributary of the Kootenai River, in Boundary County, Idaho. The project occupies lands of the United States within the Panhandle National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contacts: Smith Falls Hydropower: David B. Van Otten, Smith Falls Hydropower, P.O. Box 1328, Bountiful, Utah 84011–1328; and Eugene Water and Electric Board: Everett Jordan, Generation Manager, 500 East 4th Avenue, P.O. Box 10148, Eugene, Oregon 97440–2148.

i. FERC Contract: Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385.

j. Deadline for filing comments and or motions: August 18, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the Project Number (8436–118) on any comments or motions filed.

k. Description of Transfer: Smith Falls Hydroelectric (transferor), licensee of the Smith Creek Project, and Eugene Water and Electric Board (transferee) jointly and severally apply for approval of the transfer of the project license to the transferee.

1. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18303 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

July 14, 2000.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* New Major Licenses.

b. *Project Nos.:* 1975–014; 2061–004; 2777–007; 2778–005.

c. *Dates filed:* December 20, 1995 and May 27, 1997.

d. *Applicant:* Idaho Power Company.

e. *Name of Projects:* Bliss, Lower Salmon Falls, Upper Salmon Falls, Shoshone Falls Water Power Projects.

f. *Locations:*

Bliss Project—On the mainstem Snake River, about 6 miles west of the town of Bliss, in Gooding, Twin Falls, and Elmore Counties, Idaho. The project is partially located within federal lands administered by the Bureau of Land Management.

Lower Salmon Falls—On the mainstem Snake River, about 2 miles north of the town of Hagerman, in Gooding and Twin Falls Counties, Idaho. The project is partially located within federal lands administered by the Bureau of Land Management.

Upper Salmon Falls—On the mainstem Snake River, about 3 miles south of the town of Hagerman, in Gooding and Twin Falls Counties, Idaho. The project does not involve any federal lands.

Shoshone Falls—On the mainstem Snake River, about 4 miles east of the town of Twin Falls, in Jerome and Twin Falls Counties, Idaho. The project is partially located within federal lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Robert W. Stahman, Idaho Power Company, 1221 West Idaho street, P.O. Box 70, Boise, ID 83707, (208) 388–2676.

i. *FERC Contact:* John Blair, john.blair@ferc.fed.us, (202)–219–2845.

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. These applications has been accepted for filing and are now ready for environmental analysis.

l. The Bliss project consists of the following existing facilities: (1) a 364-foot-long, 38-foot-high concrete dam

with a 216-foot-long spillway; (2) a 5-mile-long, 255-acre reservoir with a water surface elevation of 2,654.0 feet above mean sea level (msl), with a total storage capacity of 11,100 acre-feet; (3) a powerhouse (integral with the dam) with a total installed capacity of 75 megawatts, producing about 493 gigawatthours (GWh) annually; (4) a 10.5-mile-long, 138-kilovolt primary transmission line; and other appurtenances.

The Lower Salmon Falls project consists of the following existing facilities: (1) A 700-foot-long, 38-foot-high concrete dam with a 312-foot-long spillway; (2) a 6.6-mile-long, 750-acre reservoir with a water surface elevation of 2,798 feet msl, with a total storage capacity of 11,100 acre feet; (3) a powerhouse with a total installed capacity of 60 megawatts, producing about 343 GWh annually; (4) two 138-kV primary transmission lines (0.10- and 0.15-mile-long).

The Upper Salmon Falls project consists of the following existing facilities: (1) A 1,620-foot-long, 14-foot-high concrete dam with a 240-foot-long spillway; (2) a 5.8-mile-long, 50 acre reservoir with a surface elevation of 2,878 feet msl, with a total storage capacity of 600 acre feet; (3) a powerhouse with a total installed capacity of 34 megawatts, producing about 32l GWh annually.

The Shoshone Falls project consists of the following existing facilities: (1) A 779-foot-long, 16-foot-high dam with a 380-foot-long spillway; (2) a 1.8 mile long, 86 acre reservoir with a water surface elevation of 3,354 feet msl with a total storage capacity of 11,100 acre feet; (3) a powerhouse with a total installed capacity of 12.5 megawatts, producing about 110 GWh annually

m. A copy of the applications are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The applications may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). Copies are also available for inspection and reproduction at the address in item ''h'' above.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in capital letters the title ''COMMENTS '', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to Director, Division of Environmental Engineering Review, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18334 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

July 14, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2318–002.

c. *Date filed:* December 13, 1991.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* E.J. West Hydroelectric Project.

f. *Location:* On the Sacandaga River, 6 miles upstream from its confluence with the Hudson River, in the towns of Hadley, Day, Edinburg, Providence (Saratoga County), Broadalbin, Mayfield, Northampton (Fulton County), and Hope (Hamilton County), New York. The proejct would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Hydro Licensing Coordinator, 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088, (315) 413–2787.

i. *FERC Contact:* Lee Emery, E-mail address, Lee.Emery@ferc.fed.us, or telephone (202) 219–2779.

j. Deadline for comments recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of the Project:* The existing, operating project consists of: (1) A 1,100-foot-long and 100-foot-high earth fill and concrete dam (Conklingville dam) with an outlet consisting of two spillways and a spillway weir; (2) a reservoir (Great Sacandaga Lake) with a surface area of 25,950-acres, a gross storage capacity of 792,000-acre-feet (ac-ft), and a usable storage capacity of 681,000 ac-ft, at normal maximum surface elevation of 768 feet National Geodetic Vertical Datum; (3) a concrete canal; (4) a log

boom to exclude debris and boaters from entering the canal; (5) an intake structure with 4½-inch clear spaced trashracks located directly in front of the gates; (6) four penstocks; (7) a powerhouse with two vertical Francis turbines (10 megawatts each) and two generators; (8) appurtenant equipment and controls; and (9) a control house. There is no bypassed reach. The project has a total installed capacity of 20 megawatts and an annual average energy production of 63,188 megawatt-hours.

The project operates in a limited peaking mode, using water stored in the Great Sacandaga lake. The Hudson River Black River Regulating District determines the amount of water to be released on any given day and Erie determines how that volume will be released over each 24-hour period. Great Sacandaga lake is typically drawn down for a 3 week period in the spring to allow collection of water during high flow events. Outflow from the lake during this 3 week period is restricted. The lake's average annual water fluctuation is 23 feet. Water from the powerhouse is discharged directly into the upper reach of the Stewarts Bridge Project (FERC No. 2047) reservoir.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulation (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) (set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Environmental Engineering Review, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18335 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

July 14, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2554–005.

c. *Date filed:* December 20, 1991.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* Feeder Dam.

f. *Location:* On the Hudson River, at river mile 203 in the towns of Moreau (Saratoga County) and Queensbury (Warren County), New York. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Jerry L. Sabattis, Hydro Licensing Coordinator, 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088, (315) 413–2787.

i. *FERC Contact:* Lee Emery, E-mail address, Lee.Emery@ferc.fed.us, or telephone (202) 219–2779.

j. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application has been accepted for filing and is now ready for environmental analysis.

l. *Description of the Project:* The existing, operating project consists of: (1) A 615-foot-long and 21-foot-high uncontrolled overflow concrete gravity dam with 3-feet-high flashboards; (2) a reservoir with a surface area of 717 acres, a usable storage capacity of 1,690 acre-feet (ac-ft), and a gross storage capacity of 10,000 ac-ft, at a surface elevation ranging between 284.1 and 281.1 feet National Geodetic Vertical Datum; (3) a headgate structure with 4½-inch clear spaced steel bar trashracks and eight stoplog openings; (4) five waste gates and two Champlain Feeder Canal inlet gates at the north dam abutment; and (5) a powerhouse at the dam with five identical vertical fixed blade propeller turbines and generator units (1.2 megawatts each). There is no bypassed reach. The project has a total installed capacity of 6.0 megawatts and an average annual energy production of 25,019 megawatt-hours. The New York State Thruway Authority owns the dam, waste gates, and Feeder Canal inlet gates at the Feeder Dam Project, and the licensee owns the powerhouse and appurtenant structures.

Feeder Dam servers as a re-regulating dam to even the flows released from peaking operations upstream at the Sherman Island Development (Hudson River Project, FERC No. 2482). Daily pond fluctuations range from three feet to six feet when the flashboards are in place. Water from the powerhouse is discharged directly into the upper reach of the Glens Falls (FERC No. 2385) and South Glens Falls (FERC No. 5461) reservoir.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All flings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Environmental Engineering Review, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–18336 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

July 14, 2000.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt: None.

Prohibited: None.

Linwood A. Watson, Jr.,

Acting Secretary

[FR Doc. 00–18337 Filed 7–19–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SW–FRL–6838–8]

No-Migration Variance From Land Disposal Restrictions for Exxon Mobil Corporation, Billings, MT South Land Treatment Unit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision.

SUMMARY: EPA is reissuing a no-migration variance (''variance'') for land disposal of hazardous waste to Exxon Mobil Refining & Supply Company Billings Refinery (''Exxon''), a division of Exxon Mobil Corporation, formerly known as Exxon Company U.S.A. Authority for the decision has been delegated to the EPA Regional Administrator. This variance approved under Resource Conservation and Recovery Act (RCRA) regulations allows Exxon to place certain untreated hazardous wastes subject to the RCRA land disposal restrictions (42 U.S.C. 36901 *et seq.*) at their Billings (Montana) refinery South Land Treatment Unit (SLTU). Exxon submitted a request to EPA on March 24, 1998 for renewal of the no-migration variance in conjunction with their State of Montana hazardous waste permit reissuance. Exxon also petitioned to amend the variance by adding the newly listed hazardous waste, Petroleum Refinery Primary Oil/Water/Solids Separation Sludge (EPA hazardous waste code F037) generated at the Exxon Refinery in Billings, Montana.

The variance granted today covers the following wastes generated at the Exxon Billings Refinery: Slop Oil Emulsion Solids (K049); API Separator Sludge (K051); Toxicity Characteristic Contaminated Soils (D018); and Petroleum Refinery Primary Oil/Water/Solids Separation Sludge (F037). Exxon may continue to dispose of non-hazardous solid wastes and non-restricted hazardous wastes at the SLTU in compliance with its Montana hazardous waste permit (No. MTHWP–99–02). The variance does not relieve Exxon of its responsibilities in the management of hazardous waste under 40 CFR part 260 through part 271. If Exxon wishes to dispose of additional restricted wastes at the SLTU it will have to apply for an amendment to its no-migration variance. EPA will evaluate the amendment petition and propose a decision for public comment in the **Federal Register**, with a notice in the local press, before a final decision is made.

In granting the original variance on July 27, 1993, we concluded that Exxon demonstrated to a reasonable degree of certainty that hazardous constituents would not migrate out of the land treatment facility at levels exceeding no-migration criteria for as long as the wastes remain hazardous. We reviewed the SLTU monitoring data submitted by Exxon for the period the original variance was in effect along with other relevant information, and it supported our original conclusion on Exxon's no-migration demonstration. We also concluded that Exxon adequately met the conditions of the original variance, which were included to ensure compliance with their no-migration demonstration. The variance reissuance again includes specific conditions (below) Exxon must meet to maintain the variance. In accordance with 40 CFR 268.6(k), the variance is valid for up to ten years from the date of EPA approval of the petition, but no longer than the term of Exxon's RCRA permit. The term of the variance expires upon the termination or denial of Exxon's Montana hazardous waste permit No. MTHWP–99–02), which will expire on June 28, 2009, or when the volume limit of waste to be land disposed during the term of the variance is reached.

RCRA regulations require that we provide for public comment on a proposed no-migration variance decision. EPA published notice of our proposed decision in the local press and in the **Federal Register** on April 21, 2000 (65 FR 21419). We also provided opportunity for public participation through a 45-day comment period, and held a public hearing in Billings, Montana on April 23, 2000. The public comment period closed on June 5, 2000. We did not receive any comments on our proposed decision. Therefore, EPA decided to reissue the variance and add Primary Sludge (F037) as described in the preceding **Federal Register** document (65 FR 21419). RCRA regulations require that we publish notice of our final decision in the **Federal Register**.

DATES: This final decision becomes effective July 20, 2000.

ADDRESSES: The record supporting this decision is located in Helena, Montana, at the EPA Region VIII, Montana Operations Office, Federal Building, 301 South Park. The public may make arrangements to view the documents in Helena by calling Tina Diebold at (406) 441–1130. The record is available for inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays. Another copy of the record is available to the public at the Parmly Library at 510 North Broadway, Billings, Montana, and is available for public review during regular library hours for the next thirty days.

FOR FURTHER INFORMATION CONTACT: Tina Diebold, Mail Code 8MO, Montana Office, U.S. EPA Region VIII, 301 S. Park, Drawer 10096, Helena, Montana 59626–0096, at (406) 441–1130.

SUPPLEMENTARY INFORMATION: Wherever ''we'' is used throughout this notice, it refers to EPA.

A. Conditions and Reporting Requirements for the Exxon No-Migration Variance Reissuance

As part of this reissuance of the no-migration variance and addition of Primary Sludge (F037), Exxon must comply with the following conditions. These conditions are in addition to those required of Exxon under 40 CFR 268.6. EPA would directly enforce these conditions, and a violation of a condition would constitute a violation of the RCRA land disposal restrictions. Unless otherwise notified by EPA, Exxon shall provide the required notices and reports to the EPA Region VIII Montana Operations Office, Federal Building, 301 South Park, Drawer 10096, Helena, MT, 59626. Exxon shall provide a separate copy to the State of Montana of any report or notice required by the variance if the information is not combined with the reports required under its Montana hazardous waste permit. Exxon shall provide copies to the State at the address specified for its Montana hazardous waste permit reporting requirements.

We interpret the no-migration standard to mean that concentrations of hazardous constituents cannot exceed EPA-approved health-based levels in any environmental medium at the boundary of the land disposal unit. Hazardous constituent levels exceeding those presented in Table 1 of our proposed decision (65 FR 21421) constitute migration into ground water at the unit boundary, as measured by soil-pore liquid and below treatment zone (BTZ) soil-core monitoring, and as measured by ground water monitoring under the Exxon Montana hazardous waste permit and as defined below. In the event that Exxon should detect other RCRA hazardous constituents (defined in 40 CFR part 261, appendix VIII) above health-based levels, this event would also be subject to the notification requirements in 40 CFR 268.6(f). Definitions of the unit boundaries (i.e., points of compliance for no-migration purposes) remain the same as in the original variance (57 FR 10478). Metals levels in the SLTU zone of incorporation (ZOI) soils (the top 23 centimeters of the treatment zone) exceeding the limits listed in item 1.a. below are also evidence of a no-migration standard exceedance. EPA will determine within 60 days of receiving notice of migration whether Exxon can continue to receive prohibited waste in the unit and whether the variance is to be revoked.

Exxon must report to EPA within ten days any significant changes in operating conditions from those described or modeled in its original petition or reissuance petition, including the petition to amend the variance to include Primary Sludge (F037), or at least 30 days in advance of initiating any change at or to the unit (40 CFR 268.6(e)). EPA will determine the appropriate response, including termination of waste acceptance and revocation of the variance, or variance modification.

The term of the variance expires upon the termination or denial of Exxon's Montana hazardous waste permit No. MTHWP–99–02), which will expire on June 28, 2009, or when the volume limit of waste to be land disposed during the term of the variance is reached.

1. Montana Hazardous Waste Permit Conditions

Exxon must comply with conditions of the Montana hazardous waste permit effective June 28, 1999 (No. MTHWP–99–02) regarding characterization of wastes disposed of at the SLTU, and monitoring of ground water, soil and soil-pore liquids at that unit. Exxon must provide the results of this

characterization and monitoring to EPA on the same schedule as they are provided to the State of Montana under Exxon's Montana hazardous waste permit.

In addition, Exxon must follow the monitoring provisions below specific to this variance, which are intended to supplement the existing Montana hazardous waste permit conditions. Exxon may provide the information required as a condition of the variance to EPA in the annual reports required by its Montana hazardous waste permit. Exxon shall submit annual reports for the previous calendar year by April 30.

a. ZOI Metals Loading Limit: Exxon shall determine if any of the following risk limits have been exceeded when it evaluates the annual SLTU ZOI soil samples for the metals loading limits under its Montana hazardous waste permit: 31 mg/kg for antimony; 15 mg/kg for arsenic; 2 mg/kg for beryllium; 140 mg/kg for total chromium; 400 mg/kg for lead; and 7 mg/kg for mercury. In the event one or more of these criteria are exceeded, Exxon may only place wastes on the SLTU areas(s) for which the metals concentrations are less than or equal to the in-soil concentration limits. Exxon shall submit the analytical results and comparisons in an annual report to EPA. Exxon shall report exceedances of these limits to EPA within ten days of receiving the analytical results.

b. Soil-Pore Liquid Monitoring: Exxon shall evaluate the following metals as part of semi-annual SLTU soil-pore lysimeter monitoring requirements under the Montana hazardous waste permit: antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, nickel, selenium, vanadium, and zinc. Samples from each of the three SLTU lysimeters shall be .45-micron filtered prior to analysis for metals. SW–846 [1] or equivalent analytical methods shall be used which can provide reporting limits of .001 mg/l, except .0002 mg/l for mercury. Exxon shall attempt to collect sufficient sample volumes to meet these performance criteria, following the general analytical priority scheme in its Montana hazardous waste permit. Should sample volumes be insufficient, Exxon shall investigate collecting additional sample volumes in a reasonable time frame for metals analysis once the Montana hazardous waste permit conditions have been met. Additionally, analyses of soil-pore organic monitoring constituents shall meet the SW–846 estimated quantitation limits (EQL) specified for water samples in Exxon's Montana hazardous waste permit and as listed in Table 1 of our proposed decision (65 FR 21421), to the extent possible.

c. Soil-Pore Liquid Monitoring Evaluation And Reporting: Exxon shall compare the organic hazardous constituents and the metals results to the leachate soil-pore health-based standards identified in Table 1 of our proposed decision (65 FR 21421). Exxon shall submit the analytical results and comparisons including information on sample volumes collected, analytical methods used, and EQLs achieved for all sample constituents, in an annual report to EPA. Exxon shall report exceedances of these limits to EPA within ten days of receiving the analytical results, and immediately suspend receipt of prohibited waste at the unit 40 CFR 268.6(f) upon determination of migration. Exxon shall notify EPA and the State if sufficient sample volumes cannot be collected or EQLs cannot be achieved in any semi-annual sampling period.

d. BTZ Soil-Core Monitoring: When collecting the five (5) annual soil cores from the SLTU Below Treatment Zone (BTZ) as required by its Montana hazardous waste permit, Exxon shall also collect intermediate level treatment zone soil samples at three depth intervals of 2–2.5 feet below ground surface (bgs), 3–3.5 feet bgs, and 4–4.5 feet bgs and in the BTZ itself (5–5.5 feet bgs), sufficient for analyses of oil and grease and soil pH. Oil and grease and soil pH results shall be reported for the four depth intervals in each of the five soil core samples. Exxon shall use an oil and grease analytical method which can provide detection limits in the range of 10 to 100 mg/kg consistent with the Montana hazardous waste permit. Exxon also shall analyze any BTZ resamples required under the Montana hazardous waste permit for oil and grease and soil pH. Exxon shall submit the results of the annual BTZ sampling (including the pH and oil and grease results from the intermediate levels) in an annual report to EPA. Exxon shall submit the results of any resampling to EPA on the same schedule as provided to the State under Exxon's hazardous waste permit.

e. Evaluation of BTZ Soil-Core Monitoring: Analyses for organic monitoring constituents shall meet soil low-level required EQLs as specified in Exxon's Montana hazardous waste permit and as specified in Table 1 of our proposed decision (65 FR 21421). Exxon shall compare the results of BTZ soil samples with soil-core health-based standards identified in Table 1 of our proposed decision (65 FR 21421). Exxon shall submit the analytical results and comparisons in an annual report to EPA. Exxon shall report exceedances of these limits to EPA within ten days of receiving the analytical results, and immediately suspend receipt of prohibited waste at the unit upon determination of migration.

2. Annual Benzene Loading Limit

The total amount of benzene that may be disposed of at the SLTU may not exceed a cumulative mass loading of 49 Kg per calendar year. Exxon must determine the benzene content of each wastestream, including each load of Primary Sludge (F037) prior to placement at the land treatment unit. Representative samples of each wastestream must be analyzed for benzene as they are generated during the land application season in accordance with the promulgated edition of SW–846. The term ''as generated'' means each time the wastes are removed from the wastewater system, created through a spill, or a tank is cleaned out, and the wastes are taken or will be taken to the land treatment unit, which may be several times a year. A tracking system must be in place which continually estimates and updates the cumulative benzene waste loading during the operating season. Exxon must submit a summary of these waste analyses demonstrating its compliance with the loading limit to EPA in an annual report. When the 49 Kg benzene limit is reached, Exxon must not dispose of any additional waste containing detectable levels of benzene at the SLTU until the next calendar year. Exxon shall notify EPA when the 49 Kg limit is reached within ten days of receiving the analytical results.

3. Waste Characterization

Exxon must identify in the annual report to EPA the following additional information for each applied waste at the SLTU: the location of waste generation (*e.g.,* Tank 17 sewer, Tank 108 contaminated soil); analytical results of waste determination for any wastes for which the hazardous status was not known when it was generated, mass of waste; application date(s); the hazardous waste code (if any); and the matrix (*e.g.,* soil or sludge). In the report, Exxon must distinguish between the F037 waste generated from the sewer (*e.g.,* ''F037 sewer sludge'') and the F037 waste generated from the

[1] These methods are found in the third edition of ''Test Methods for Evaluating Solid Waste Physical/Chemical Methods,'' EPA, SW–846, which is available from the Government Printing Office (GPO). This compendium of EPA test methods is commonly referred to as ''SW–846'' and we will use this term to refer to the compendium throughout this notice.

Alkyllation Unit Neutralization Basins (*e.g.,* ''F037 lime sludge''). In the annual report, Exxon must also include the total quantity of waste applied at the SLTU during the last operating season and a break down of the total quantity of hazardous and of non-hazardous waste.

4. Application of F037 Sewer Sludge

Exxon's application of Primary Sludge generated from the sewer system (F037 sewer sludge) to the SLTU is restricted to times when Exxon also applies API Separator Sludge (K051). Exxon must combine the F037 sewer sludge with the API Separator Sludge prior to or during application at the SLTU. Exxon shall incorporate this condition in its waste tracking system to ensure that any time F037 sewer sludge is cleared for application to the SLTU, it is accompanied by K051 waste.

5. Application of F037 Lime Sludge

Exxon's application of Primary Sludge generated from the Alkyllation Unit Neutralization Basin (F037 lime sludge) to the SLTU is limited to when it has determined pH adjustment of the ZOI soils is needed according to the applicable criteria and methods identified in its Montana hazardous waste permit. For the years in which Exxon uses F037 lime sludge to adjust the pH of the ZOI soils at the SLTU, Exxon must submit to EPA the following information in the annual report: pH of the F037 lime sludge applied to the SLTU, and the other measurements and tests used to determine the need for pH adjustment as well as the quantity of F037 lime sludge applied and the quantity of any other substance (*e.g.,* lime) used to adjust the pH of the ZOI soil at the SLTU.

6. Waste Tracking

As part of its waste tracking process, Exxon must confirm receipt of analytical results for any wastes for which the hazardous status is not currently known prior to application of the waste at the SLTU. Exxon must comply with its Montana hazardous waste permit conditions with regard to restrictions on the application of waste to the SLTU, such as any restrictions based on the pH of the waste.

7. Information Requests

Upon request by EPA, Exxon shall provide to the EPA within a reasonable time, any relevant information requested to determine compliance with the conditions of this variance.

8. Access

Exxon shall allow EPA, or authorized representatives, upon the presentation of credentials and other documents as may be required by law to: (a) Inspect at reasonable times any records, facilities, equipment (including monitoring and control equipment), practices, or operations related to the disposal of restricted hazardous wastes at the SLTU; and (b) sample or monitor at reasonable times, for the purposes of assuring compliance with the conditions of this variance or to determine migration or as otherwise authorized by RCRA, any wastes intended or proposed for disposal at the SLTU and the soil, air, soil-pore liquids or ground water in or surrounding the SLTU.

Dated: July 11, 2000.

Rebecca Hanmer,

Acting Regional Administrator, Region VIII.

[FR Doc. 00–18437 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00670; FRL–6598–7]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency pertaining to an assessment of the human carcinogenic potential of malathion. The meeting is open to the public. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Paul Lewis at the address listed under ''FOR FURTHER INFORMATION CONTACT'' at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held on August 17 and 18 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at Holiday Inn—Ballston, 4610 North Fairfax Drive, Arlington, VA. The telephone number for the Holiday Inn Hotel is: (703) 243–9800.

Requests to participate may be submitted by mail, electronically, or inperson. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your request must identify docket control number OPP–00670 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Designated Federal Official, Office of Science Coordination and Policy (7101C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5369; fax number: (703) 605–0656; e-mail address: lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. GENERAL INFORMATION

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), or FIFRA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* A meeting agenda and copies of EPA primary background documents for the meeting will be available by mid-July. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap. To access this document, on the Home Page select **Federal Register**— Notice announcing this meeting. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an administrative record for this meeting under docket control number OPP–00670. The administrative record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other information related to an assessment of the carcinogenic potential of malathion, including any information claimed as Confidential Business Information (CBI). This administrative

record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the administrative record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00670 in the subject line on the first page of your request. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advanced written request to the person listed under ''FOR FURTHER INFORMATION CONTACT,'' interested persons may be permitted by the Chair of the FIFRA SAP to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard, etc). There is no limit on the length of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the person listed under ''FOR FURTHER INFORMATION CONTACT'' and submit 40 copies of the summary information. The Agency encourages that written statements be submitted before the meeting to provide Panel Members the time necessary to consider and review the comments.

1. *By mail.* You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your request electronically by e-mail to: ''opp-docket@epa.gov.'' Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00670. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the Meeting

This 2-day meeting concerns the evaluation of the human carcinogenic potential of malathion. In accordance with the EPA Guidelines for Carcinogen Risk Assessment (Preliminary Draft, July 1999), the EPA, Office of Pesticide Programs, has proposed to classify malathion as having ''suggestive evidence of carcinogenicity but not sufficient to assess human carcinogenic potential'' by all routes of exposure. This classification was based on the following factors: (1) occurrence of liver tumors in male and female B6C3F1 mice and in female Fischer 344 rats only at excessive doses; (2) the presence of a few rare tumors, oral palate mucosa in females and nasal respiratory epithelium in male and female Fischer 344 rats. These tumors cannot be distinguished as either treatment-related or due to random occurrence; (3) the evidence for mutagenicity is not supportive of a mutagenic concern in carcinogenicity; and (4) malaoxon, a structurally-related chemical, is not carcinogenic in male or female Fischer 344 rats. With the exception of one nasal and one oral tumor in female rats, all other tumor types were determined to occur at excessive doses or were unrelated to treatment with malathion. The toxicology data considered included chronic toxicity, carcinogenicity, subchronic toxicity, and mutagenicity studies on malathion and as well as carcinogenicity and mutagenicity studies on malaoxon.

B. Panel Report

Copies of the Panel's report of their recommendations will be available approximately 45 working days after the meeting, and will be posted on the FIFRA SAP web site or may be obtained by contacting the Public Information and Records Integrity Branch at the address or telephone number listed in Unit I. of this document.

List of Subjects

Environmental protection.

Dated: July 13,2000.

Steven Galson,

Director, Office of Science Coordination and Policy, Office of Pesticide Programs.

[FR Doc. 00–18516 Filed 7–18–00; 1:23 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6839–1

Board of Scientific Counselors, Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of teleconference.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2) notification is hereby given that the Environmental Protection Agency, Office of Research and Development (ORD), The Board of Scientific Counselors (BOSC), will hold its Executive Committee Meeting (Teleconference).

DATES: The Teleconference will be held on August 10, 2000.

ADDRESSES: On Thursday, August 10, 2000, the teleconference will begin at 10:00 a.m. and will adjourn at 12:00 Noon. All times noted are Eastern Time.

SUPPLEMENTARY INFORMATION: The entire agenda of the BOSC Executive Committee teleconference will be dedicated to the discussion and approval of the BOSC Ad-Hoc Subcommittees' Reviews of ORD's Particulate Matter Research Program. The teleconference is open to the public. Any member of the public wishing to speak on the teleconference should contact Shirley Hamilton, Designated Federal Officer, Office of Research and Development (8701R), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460; or telephone at (202) 564–6853. In general each individual making an oral presentation will be limited to a total of three minutes.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCER (MC 8701R), 1200

Pennsylvania Avenue, N.W. Washington, D.C. 20460, (202) 564–6853.

Dated: July 12, 2000.

Peter W. Preuss,

Director, National Center for Environmental Research.

[FR Doc. 00–18433 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6838–9]

Proposed Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Proposed Allocation Methodology for Funding to States for the Operator Certification Expense Reimbursement Grants Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; solicitation of comments.

SUMMARY: In this Notice, the Environmental Protection Agency (EPA) is seeking comment on proposed additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems, which were published in the **Federal Register** on February 5, 1999 (64 FR 5916). Specifically, EPA is seeking comment on the approach and schedule for review of State operator certification programs for the purpose of making Drinking Water State Revolving Fund (DWSRF) withholding determinations, and the intent of the term ''validated exam''. EPA is also seeking comment on the proposed allocation methodology and program for funding that will be used to award grants to States for the Operator Certification Expense Reimbursement Grants Program.

DATES: Submit written comments on or before September 5, 2000.

ADDRESSES: Send written comments on this **Federal Register** notice to the Operator Certification Comment Clerk, Water Docket MC–4101 (Docket #W–98–07), United States Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC, 20460. Please submit an original and three copies of your comments and enclosures (including references). Those who comment and want EPA to acknowledge receipt of their comments must enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. Comments may be hand-delivered to EPA's Water Docket, Room EB57, 401 M Street SW, Washington, DC 20460. Comments may also be submitted electronically to ow-docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and forms of encryption. Electronic comments must be identified by Docket #W–98–07. Comments and data will also be accepted on disks as a WordPerfect 8 file. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The record for these proposals has been established under Docket #W–98–07, and includes supporting documentation as well as printed paper versions of electronic comments. The record is available for review at EPA's Water Docket, Room EB57, 401 M Street SW, Washington DC 20460. For access to the Docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Time for an appointment and reference Docket #W–98–07.

FOR FURTHER INFORMATION CONTACT: For technical inquiries, contact Jenny Jacobs, Office of Ground Water and Drinking Water (4606), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC, 20460. The telephone number is (202) 260–2939 and the e-mail address is *jacobs.jenny@epa.gov.* For copies of this document, contact the Safe Drinking Water Hotline, toll free at (800) 426–4791. Copies can also be obtained from EPA's website at *http://www.epa.gov/ogwdw/opcert/opcert.htm.* Copies of EPA's Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems may be obtained by contacting the Safe Drinking Water Hotline or EPA's website at *http://www.epa.gov/ogwdw/opcert/opguide.html.*

SUPPLEMENTARY INFORMATION:

I. Proposed Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

A. Background

The operator certification guidelines were developed to meet the requirements of section 1419(a) of the Safe Drinking Water Act (SDWA), as amended in 1996. Section 1419(a) directs the United States Environmental Protection Agency (EPA) to develop guidelines specifying minimum standards for certification and recertification of operators of community and nontransient noncommunity public water systems and to publish final guidelines by February 6, 1999. The final guidelines were published in the **Federal Register** on February 5, 1999 (64 FR 5916)—see Docket #W–98–07, Operator Cert., II–A.1. Pursuant to section 1419(b) of the SDWA, beginning two years after the date on which EPA publishes guidelines for the certification (and recertification) of operators of community and nontransient noncommunity public water systems (or February 5, 2001), EPA shall withhold 20 percent of the funds a State is otherwise entitled to receive under SDWA section 1452 unless a State has adopted and is implementing a program that meets the requirements of EPA's operator certification guidelines. Section 1452 establishes a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to further the public health objectives of the Act. Section 1452 authorizes EPA to award capitalization grants to States, which in turn provide low cost loans to eligible systems and other types of assistance. Under section 1452, States can also set aside a portion of their capitalization grant to use for State program management purposes relating to implementation of the public water system supervision, source water protection, operator certification and capacity development programs. States must meet the requirements contained in EPA's operator certification guidelines to avoid DWSRF capitalization grant withholding. There are no other sanctions for States with operator certification programs that do not meet the requirements of the

guidelines. All funds withheld by EPA shall be reallotted based on the formula originally used to allot those funds. These withheld funds will be realloted to States who are implementing a program that meets EPA's guidelines. A State that has not met the requirements of the guidelines is not eligible to receive reallotment of withheld funds.

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), EPA must obtain approval from the Office of Management and Budget (OMB) to collect information from the States required under the Operator Certification Guidelines as well as the Operator Certification Expense Reimbursement Grants Program. EPA is expecting to obtain approval of an Information Collection Request (ICR) for this information later this year. Advance notice of the ICR will be published in the **Federal Register** for public comment before it is submitted to OMB. EPA may not conduct, or sponsor, and a person is not required to submit to a collection of information unless the Agency has OMB approval for collection of the information.

B. General Review and Withholding Process Information

This proposal covers the deadlines for States to submit their operator certification programs to EPA, time frames for EPA to review States programs, time frames for States to address any identified deficiencies, and time frames for EPA to make withholding decisions. DWSRF withholding decisions will be made on an annual basis once a State has received EPA approval that its program meets EPA's guidelines. Annual decisions will be based upon a State's ongoing implementation of its operator certification program.

In developing an approach for reviewing State operator certification programs and making withholding decisions, EPA sought to: (a) Establish a consistent date for all States to meet the requirements of the guidelines; (b) provide States with sufficient time to make changes in their programs in response to EPA review before EPA permanently withholds funds; and (c) allow future operator certification program decisions to be made at the beginning of the fiscal year so that States can plan for their use of DWSRF program funds.

States have two options for submitting their programs to EPA for review. Section 1419(c) recognizes that some States may have existing operator certification programs that meet the public health objectives of the guidelines and allows those States to submit their existing programs as ''substantially equivalent'' to the guidelines instead of requiring those States to make revisions to their programs. Alternatively, States that must make changes to their existing programs may submit revised programs to meet the requirements of EPA's guidelines.

Section C explains EPA's proposed schedule for States that intend to submit their existing operator certification programs as ''substantially equivalent'' programs. Section D explains EPA's proposed schedule for States planning to revise their operator certification programs.

EPA is specifically seeking comment on the process for reviewing and making withholding determinations for operator certification program submittals. The two approaches will be finalized and published in the **Federal Register** after receiving public comment. These approaches will then be included as part of the final operator certification guidelines in section III (Program Submittal Process), subsection A (Submittal Schedule and Withholding Process), which is currently reserved.

C. Review Process and DWSRF Withholding Determinations for Substantially Equivalent State Operator Certification Programs

As required by section 1419(c) of the SDWA, any State which submits its existing program to EPA as ''substantially equivalent'' to the EPA guidelines must do so by August 5, 2000. If EPA does not act on a program submitted as ''substantially equivalent'' within nine months of submittal, the program is deemed to meet the requirements of the guidelines. However, EPA will strive to complete its reviews of State programs within six months. States are encouraged to submit their final operator certification programs to EPA for review before the August 5, 2000 deadline (Diagram 1 at the end of this section has been included as a visual aid for understanding the following schedule).

The proposed approach for review of a State's initial operator certification program is:

- A State must submit its program to EPA for review by August 5, 2000. Any State program that is submitted after August 5, 2000 will be considered a revised program and will follow the schedule in section D.
- Within six months of a State submittal, and no later than February 5, 2001, EPA will complete its review of a State program. At that time, EPA will either make a determination that the program is substantially equivalent or will issue a Notice of Disapproval and will provide a list of deficiencies to the State.
- A State has six months after receipt of a Notice of Disapproval to correct deficiencies and submit the changes to EPA. EPA will approve or disapprove the State's program by September 30, 2001.

The proposed approach for withholding decisions based on a State's initial operator certification program submittal is:

- If a State program is submitted but EPA has not yet determined that it meets the guidelines on February 5, 2001, 20% of unawarded FY 2001 funds will be held back (but not permanently withheld).
- If a State program is approved by September 30, 2001, held back FY 2001 funds will be released to the State.
- On October 1, 2001, a State with a disapproved program will permanently lose any held back funds from FY 2001, plus 20% of FY 2002 funds.

The proposed approach for withholding decisions based on a State's annual operator certification program submittal is:

- Any State whose program is approved on or before September 30, 2000 is required to undergo its first annual review of its operator certification program on or before September 30, 2001.
- If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of FY 2002 funds on October 1, 2001.
- On or before September 30, 2002, and annually thereafter, EPA will review a State's operator certification program and make any necessary determinations to withhold funds from the upcoming fiscal year's allotment.

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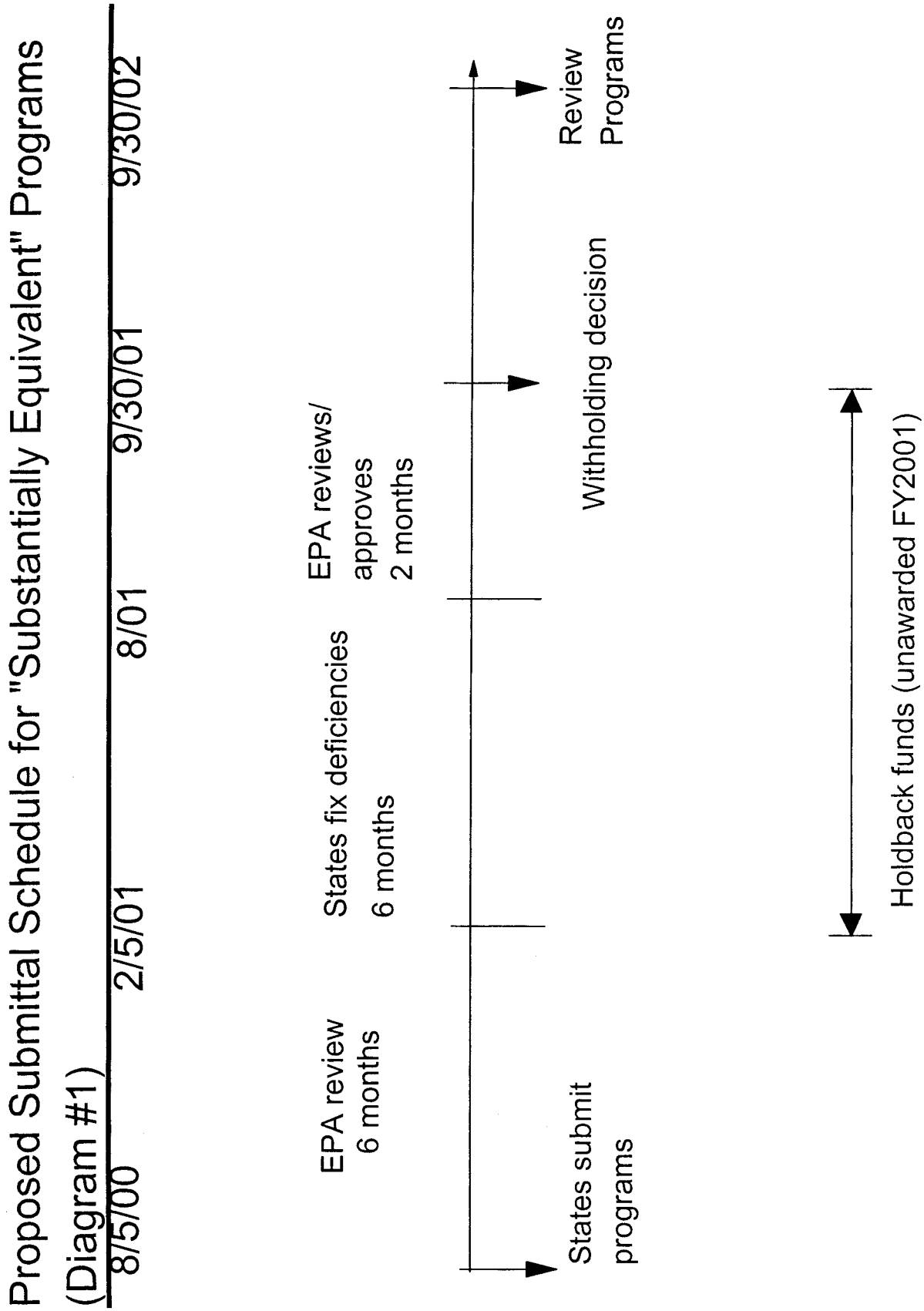

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D. Review Process and DWSRF Withholding Determinations for Revised State Operator Certification Programs

If a State makes revisions to its existing program in order to meet the requirements of the guidelines, the State will submit its program as a revised program. States are required to submit their revised programs by February 5, 2001, however all States are encouraged to submit their operator certification programs to EPA for review before this deadline (Diagram 2 at the end of this section has been included as a visual aid for understanding the following schedule).

The proposed approach for review of a State's initial operator certification program and for making withholding decisions is:

• A State must submit its initial operator certification program to EPA for review by February 5, 2001. If a State does not submit its program to EPA by February 5, 2001, the State will immediately lose 20% of unawarded FY 2001 funds. The guidelines require States to submit an Attorney General's certification, a full description and explanation of how the State's operator certification program complies with the requirements of the guidelines and a copy of the State's operator certification regulations. There may be situations where a State's legislative schedule would not allow a State to have final regulations certified by the Attorney General by February 5, 2001. In these situations, States must submit regulations that have been adopted by the implementing agency or agencies but are awaiting legislative approval, a schedule for final adoption by the State legislature and a full description of how the State's program complies with the requirements of the guidelines. The State must submit its Attorney General's certification immediately once its regulations have been approved by the legislature, but no later than September 30, 2002.

• Between February 5, 2001, and September 30, 2002, EPA will hold back 20% of unawarded FY 2001 and FY 2002 funds from any State that submits its program to EPA by the February 5, 2001 deadline but that has not yet received EPA approval of its program.

• Within six months of a State's submittal date, EPA will complete its review of State programs that were submitted by the February 5, 2001 deadline. At that time, EPA will determine that either the State's program meets EPA's guidelines or will provide a list of deficiencies to the State.

• States have until September 30, 2002 to correct deficiencies and to receive EPA approval of its operator certification program in order to receive any FY 2001 and FY 2002 funds that were held back from the State.

• On September 30, 2002 a State that does not have an EPA approved program will lose any held back FY 2001 and FY 2002 funds.

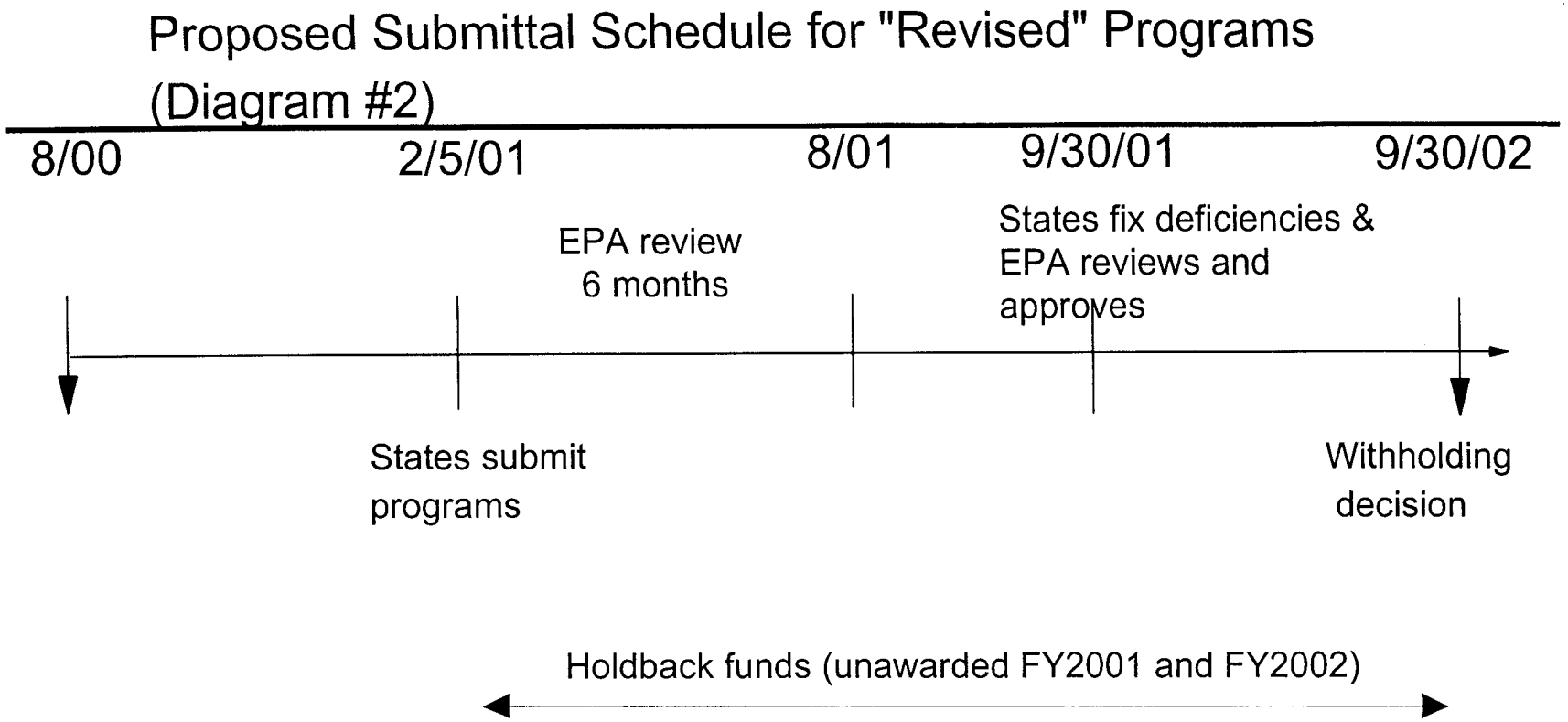
• On October 1, 2002, a State that does not have an EPA approved program will lose 20% of its FY 2003 funds.

The proposed approach for withholding decisions based on a State's annual operator certification program submittal is:

• Any State that has received EPA approval of its initial operator certification program before September 30, 2000 is required to undergo its first annual review of its operator certification program on or before September 30, 2001. If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of its FY 2002 funds on October 1, 2001.

• Any State that receives EPA approval of its initial operator certification program between October 1, 2000 and September 30, 2001 is required to undergo its first annual review of its operator certification program between October 1, 2001 and September 30, 2002. If EPA finds that the State's annual submittal does not meet the guidelines, the State will permanently lose 20% of its FY 2003 funds on October 1, 2002.

• On or before September 30, 2003, and annually thereafter, EPA will review a State's operator certification program and make any necessary determinations to withhold funds from the upcoming fiscal year's allotment.



EPA permanently withholds 20% of FY 2001 DWSRF funds if a State fails to submit its program for review by Feb 5, 2001

E. Validated Exam Issue

The Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems contains nine baseline standards that States are required to adopt and implement in their operator certification programs. States are required to classify all of their community and nontransient noncommunity water systems (including all treatment facilities and/or distribution systems). States are also required to develop specific operator certification and renewal requirements for each level of classification. The baseline standard for Operator Qualifications specifies that State programs must require that for an operator to become certified, the operator must ''take and pass an exam that demonstrates that the operator has the necessary skills, knowledge, ability and judgement as appropriate for the classification''. Furthermore, this baseline standard specifies that ''all exam questions must be validated''. At the end of the guidelines, EPA includes a definition of ''validated exam''. EPA defines a validated exam to be ''an exam that is independently reviewed by subject matter experts to ensure that the exam is based on a job analysis and related to the classification of the system or facility''. EPA is requiring States to validate exams for operators because it will ensure that exams cover the fundamental skills, knowledge, ability and judgement required to safely operate water systems as well as determine the competency of operators.

The requirement that ''all exam questions must be validated'' is not entirely consistent with the reference to ''validated exam''. EPA believes that an exam that is made up of validated questions may not include the full spectrum of information that an operator needs to know in order to properly operate a water system. EPA is therefore requesting comment on an amendment to the guidelines that would clarify EPA's intent that all exams, not just exam questions, be validated.

II. Proposed Allocation Methodology for the Operator Certification Expense Reimbursement Grants Program

A. Background

Section 1419(d) of the SDWA requires EPA to reimburse the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating community and nontransient noncommunity public water systems serving 3,300 persons or fewer that are required to undergo training pursuant to EPA's operator certification guidelines. The reimbursement is to be provided through grants to States. Each State is to receive an amount sufficient to cover the reasonable costs for training all such operators in the State. The amount each State will receive to cover the reasonable costs for training will be determined by the Administrator of EPA. Section 1419(d) also authorizes an appropriation of $30 million in funding for this reimbursement each year from FY 1997 through FY 2003 and stipulates that, if this appropriation is not sufficient, EPA shall reserve these funds from the national DWSRF program appropriation. It is EPA's intention to set aside funds for expense reimbursement from the national DWSRF program appropriation.

The grants are first to be used to provide reimbursement for training and certification costs of persons operating community and nontransient noncommunity water systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for capitalization grants under section 1452 of the SDWA.

B. Administration of the Grants Program

States may apply for and receive the expense reimbursement grant funds in accordance with the requirements of 40 CFR part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments) once their operator certification program has received approval by EPA. A State has two years from the date of initial program approval to apply for and receive its expense reimbursement grant. Funds not obligated within this two year period will be reallotted to States for use in the DWSRF program based on the formula used to allot the DWSRF funds. If sufficient funds are not available to fully fund the expense reimbursement grant, the two year period shall begin on the date the funds become available. EPA will notify States of the availability of funds.

In order to receive funding, a State must submit an application for an expense reimbursement grant. EPA will require States to submit a work plan and annual progress report on how these funds are to be used in meeting the requirements of section 1419(d). After a State has reimbursed all such costs pursuant to section 1419(d)(1), the State may, after notice to the Administrator of EPA, use any remaining funds from the grant for any of the other purposes authorized for capitalization grants under section 1452 of the SDWA. The notification for using the remaining expense reimbursement grant funds for any of the other purposes authorized for capitalization grants under section 1452 must include supporting documentation that the State has met the requirement for training and certifying its operators. The State will also be required to explain in a work plan how the remaining funds will be used. States will be given broad discretion on how to implement the expense reimbursement grants program to best meet the needs of the systems in the State and to minimize the administrative expenses in carrying out this program.

EPA's intention to set aside funds for the expense reimbursement grants program from the national DWSRF program appropriation has triggered questions concerning whether EPA should require a 20% State match pursuant to section 1452(e). Even though the funds have been appropriated under section 1452, EPA believes that since the expense reimbursement grants program is authorized under section 1419(d), there should be no 20% match requirement for this grant because there are no match requirements for funds awarded pursuant to that section. EPA, however, believes that any remaining funds from this grant program that States may use for any of the other purposes authorized for capitalization grants under section 1452 should require a 20% match, and is specifically seeking comment on this issue.

C. Program Funding

EPA estimates that between $97 million to $131 million will be needed for the expense reimbursement grants program between FY 1999, when the final operator certification guidelines were published, and FY 2003, the last year for which these grants are authorized. This estimate represents the range of the total amount of funding that EPA believes is necessary to initially train and certify operators of community and nontransient noncommunity water systems serving 3,300 persons or fewer to meet the requirements of the guidelines. EPA has developed this estimate based on the assumptions listed below:

Funding Assumptions

1. Total number of community and nontransient noncommunity water systems serving 3,300 or fewer persons = 65,255 (from Safe Drinking Water Information System (SDWIS) database).

2. Number of operators per system (see options listed below).

3. ½ of the operators would be unsalaried and therefore would be eligible for per diem.

4. Per diem = $100/day (Per diem is a daily allowance that would cover the costs of lodging and meals; for unsalaried operators only).

5. Four days of per diem assumed for class attendance (two days per training class).

6. The cost of all training classes estimated at $300/class.

7. Two training classes per operator for initial certification or certification renewal.

8. $75 fee for initial certification/certification renewal.

9. For mileage purposes, assume two round trips (one round trip for each training class).

10. Number of miles per round trip = 200.

11. Mileage reimbursement estimated at $.31/mile (for all operators).

The range of the total amount of funding necessary for reimbursement is primarily driven by the number of operators per system who would require reimbursement. EPA is proposing three options for this assumption:

- 2 operators per system
- 1.5 operators per system
- 2 operators per community water system (CWS) and 1 operator per nontransient noncommunity water system (NTNCWS)

EPA will determine the allotment for each State by substituting the number of community and nontransient noncommunity water systems serving 3,300 persons or fewer for a particular State under Assumption #1.

For example, if a State has 1,000 eligible water systems, the allocation would be calculated as follows using the option of 2 operators per system:

Funding Assumptions

1.Total number of community and nontransient noncommunity water systems serving 3,300 or fewer persons = 1,000.

2. Number of operators per system = 2×1,000 = 2,000.

3. ½ of the operators would be unsalaried and therefore would be eligible for per diem = 2,000×½ = 1,000.

4. Per diem = $100/day (Per diem is a daily allowance that would cover the costs of lodging and meals; for unsalaried operators only) = 1,000×$100 = $100,000.

5. Four days of per diem assumed for class attendance (two days per training class) = 4×$100,000 = $400,000.

6. The cost of all training classes estimated at $300/class.

7. Two training classes per operator for initial certification or certification renewal = 2×$300×2,000 = $1,200,000.

8. $75 fee for initial certification/certification renewal = $75×2,000 = $150,000

9. For mileage purposes, assume two round trips (one round trip for each training class).

10. Number of miles per round trip = 200×2 = 400.

11. Mileage reimbursement estimated at $.31/mile (for all operators) = 400×$.31×2,000 operators = $248,000.

By adding the dollar amounts listed under assumptions 5, 7, 8 and 11, the proposed amount of money for the grant would be $1,998,000.

EPA is seeking comment on the method for estimating costs, and specifically, on the following issues:

1. Which one of the three options for the number of operators per system is the most reasonable for purposes of calculating the total amount of funding?

2. Are the additional assumptions (1, 3–11) proposed for calculating the total amount of funding reasonable assumptions?

3. Are there other assumptions that should be used?

D. Allocation Methodology

EPA evaluated several options for allocating the funds among States. Four options that were evaluated for allocating the funds to States were: (1) An allocation methodology based on the 1999 Drinking Water Infrastructure Needs Survey; (2) an allocation methodology based on the Public Water System Supervision grants formula; (3) an allocation methodology based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State; and (4) an allocation methodology based solely on systems which must have a certified operator for the first time as a result of the newly published guidelines.

EPA recommends allocating the funds based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State (option three). EPA believes that this allocation methodology is the most easily understood and it appears to be the most equitable option of those which were evaluated. The number of systems serving 3,300 persons or fewer is readily available from EPA's national SDWIS database.

EPA's recommended approach of allocating the funds based on the number of community and nontransient noncommunity water systems serving 3,300 or fewer in each State is supported by the National Drinking Water Advisory Council, which is a group of stakeholders consisting of members of the general public, State and local agencies, water systems and private groups concerned with safe drinking water.

EPA believes that an allocation methodology based on the number of systems which must have a certified operator for the first time would penalize those States which already require small systems to have certified operators or would penalize those States that moved ahead to improve their operator certification programs before the guidelines were published. Currently, EPA cannot accurately predict the number of new operators that must be certified and/or identify systems with operators whose certification must be upgraded to meet the guidelines.

EPA will finalize the allocation methodology and publish it in the **Federal Register** after receiving public comment.

Dated: June 27, 2000.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 00–18434 Filed 7–19–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–6734–9]

Notice of Availability of Proposed National Pollutant Discharge Elimination System (''NPDES'') General Permit for Offshore Oil and Gas Exploration, Development and Production Operations off Southern California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed NPDES General Permit (Reissuance).

SUMMARY: The Regional Administrator, EPA, Region 9, is proposing to issue an NPDES general permit (permit No. CAG280000) for discharges from oil and gas exploration, development and production operations in Federal waters offshore of the State of California. This document announces the availability of the proposed general permit and fact sheet for public comment. When issued, the proposed permit will establish effluent limitations, prohibitions, and other conditions on discharges from facilities in the general permit area. These conditions are based on the administrative record.

This document also announces the availability of the following documents

for public review: (1) Ocean Discharge Criteria Evaluation (''ODCE'') which evaluates the proposed discharges for compliance with the requirements of section 403(c) of the Clean Water Act (''CWA''), (2) two biological assessments (''BAs'') (for two different groups of species) which evaluate the proposed discharges for compliance with the requirements of the Endangered Species Act, and (3) an essential fish habitat (''EFH'') assessment which evaluates the proposed discharges for compliance with the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments on the proposed general permit must be received or postmarked no later than September 5, 2000.

Public Hearing: A public hearing to receive public comment concerning the proposed general permit will be held at the time and location provided below:

Date: August 23, 2000.
Time: 2 p.m.
Place: Santa Barbara County Administration Building, 105 E. Anapamu Street, Santa Barbara, CA 93101

ADDRESSES: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 9, Attn: CWA Standards and Permits Office, WTR–5, 75 Hawthorne Street, San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, EPA, at the address listed above or telephone (415) 744–1906. Copies of the proposed general permit and fact sheet will be provided upon request and are also available at EPA, Region 9's website at http://www.epa.gov/region09/water/.

SUPPLEMENTARY INFORMATION: *State Consistency Review:* This document will also serve as Public Notice of the intent of the State of California, California Coastal Commission (''CCC''), to review this action for consistency with the approved California Coastal Management Program (''CCMP''). Persons wishing to comment on the issue of consistency with the CCMP should submit written comments to the California Coastal Commission, 45 Fremont Street, Suite 2000, San Francisco, CA 94105–2219. Comments should be addressed to the attention of California Coastal Management Program Consistency Review. Comments may be submitted to the CCC from the date of publication of this notice in the **Federal Register** until the CCC has conducted its review of this action (which will occur as soon as possible after close of the 45-day comment period announced by this notice, but in no event later than 180 days after commencement of the CCC's review).

Administrative Record: The proposed NPDES general permit and other related documents in the administrative record are on file and may be inspected any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays, at the addresses shown below. U.S. EPA, Region 9, CWA Standards and Permits Office (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105–3901.

Summary of Terms and Conditions of Proposed General Permit

A. Facility Coverage. The proposed general permit would apply to existing development and production platforms, and new exploratory drilling operations in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in and discharging to 83 specified lease blocks in Federal waters on the Pacific Outer Continental Shelf (''OCS''), offshore Southern California. There are currently 22 existing production platforms on the Pacific OCS. New source production platforms would not be covered by the proposed permit and would require individual permits.

All dischargers requesting coverage under the permit would be required to submit a Notice of Intent (''NOI''). Information to be provided includes the legal name and address of the owner or operator, the facility name and location, type of facility and discharges, lease block, previous permits, and the receiving water. EPA may require any person authorized by the general permit to apply for and/or obtain an individual NPDES permit if the terms of the general permit are determined to not be appropriate for a particular facility.

B. Types of Discharges Authorized. The proposed general permit would authorize the following discharges (subject to the terms and conditions of the permit) in all areas of coverage: drilling fluids and drill cuttings; produced water; well treatment, completion and workover fluids; deck drainage; domestic and sanitary waste; blowout preventer fluid; desalination unit discharge; fire control system test water; non-contact cooling water; ballast and storage displacement water; bilge water; boiler blowdown; test fluids; diatomaceous earth filter media; bulk transfer material overflow; uncontaminated freshwater; water flooding discharges; laboratory wastes; excess cement slurry; hydrotest water; and hydrogen sulfide gas processing waste water.

C. Effluent Limitations. The proposed general permit includes effluent limitations based on Best Conventional Pollutant Control Technology (''BCT'') for the control of conventional pollutants, Best Available Treatment Economically Achievable (''BAT'') for the control of toxic and nonconventional pollutants and (3) additional effluent limitations based on section 403(c) (ocean discharge requirements) of the CWA. BAT and BCT effluent limitations guidelines were promulgated by EPA on March 4, 1993 (58 FR 12454) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. These BAT/BCT effluent limitations have been included in the proposed permit, along with certain additional effluent limitations based on section 403(c) of the CWA. In addition, monitoring requirements have been included to ensure compliance with the effluent limitations.

EPA currently lacks sufficient information to establish appropriate final effluent limitations for certain pollutants (primarily heavy metals and toxic organics) in produced water discharges. For these pollutants, the proposed permit would require monitoring to evaluate whether the discharges have a reasonable potential to cause or contribute to exceedances of marine water quality criteria. Based on the results of the monitoring (which would be available approximately 2½ years into the term of the permit), the permit may be reopened to include additional effluent limitations.

In view of the variety of pollutants in produced water, the proposed permit also requires chronic whole effluent toxicity (''WET'') monitoring to measure the aggregate toxic effects of the pollutants. If toxicity is detected, accelerated testing would be required by the permit, and if the toxicity persists, a Toxicity Reduction Evaluation (''TRE'') would be required along with a Toxicity Identification Evaluation (''TIE'') to identify the specific chemical(s) causing the toxicity.

D. Ocean Discharge Criteria Evaluation (ODCE). Section 403 of the CWA requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the potential degradation of the marine environment. Guidelines for evaluating proposed discharges are found at 40 CFR part 125, subpart M (Ocean Discharge Criteria regulations).

An ODCE has been prepared entitled ''Ocean Discharge Criteria Evaluation South and Central California for NPDES

Permit No. CAG280000'' dated January 2000, which evaluates the discharges which would be authorized by the proposed general permit. After review of the ODCE, and other available data and studies in the administrative record for the permit, EPA has tentatively concluded that the proposed discharges would not cause unreasonable degradation of the marine environment. However, this conclusion will be re-evaluated based on comments received on the proposed permit.

E. Endangered Species Act. The area covered by the proposed permit potentially includes species under the jurisdiction of both the U.S. Fish and Wildlife Service (''USFWS'') and the National Marine Fisheries Service (''NMFS''). As such, EPA prepared separate BAs to assess the potential impacts of the permit reissuance on listed species under the jurisdiction of the USFWS and NMFS. Both BAs concluded that there would be no effect on listed species. EPA is providing copies of the draft permit and fact sheet along with the appropriate BA to the Long Beach office of the NMFS and the Ventura Field Office of the USFWS for review and comment on EPA's conclusions concerning the effects of the proposed discharges on listed species.

F. Coastal Zone Management Act. The Coastal Zone Management Act (''CZMA'') provides that a Federal license or permit for activities affecting the coastal zone of a state may not be granted until a state with an approved Coastal Management Plan (''CMP'') concurs with a certification that the activities authorized by the permit are consistent with the CZP (CZMA section 307(c)(3)(A)). In California, the CZMA authority is the CCC. In this case, EPA will be preparing and submitting to the CCC the required certification. Since the necessary consistency concurrence has not been obtained, the proposed permit provides that the permit will not become effective until the required concurrence of the CCC is obtained.

G. Magnuson-Stevens Fishery Conservation and Management Act. In accordance with the requirements of the 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act, EPA prepared an assessment of the effects of the proposed discharges on EFH in the area covered by the permit. The assessment concludes that while there may be effects on EFH from certain discharges near an outfall, these effects should be minor overall given the small area which may be affected relative to the size of the EFH off the Pacific Coast, and the mitigation provided by the various effluent limitations which are proposed for the permit. EPA has provided a copy of the assessment to NMFS to initiate a consultation. Upon completion of the consultation, NMFS will provide conservation recommendations to EPA based on its review of the EFH assessment. Although NMFS's recommendations are non-binding on Federal agencies, the final permit may nevertheless include additional or modified requirements based on NMFS's review.

H. Permit Effective Date and Appeal Procedures. To ensure smooth transition and allow current operators time to apply and prepare for the new requirements, the effective date of the general permit is proposed as the first day of the month that begins at least 45 days after the CCC concurs with the certification provided by EPA that the discharges authorized by the permit are consistent with the approved California CMP.

Within 120 days following notice of EPA's final decision for the general permit under 40 CFR 124.15, any interested person may appeal the permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further Agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit as specified at 40 CFR 122.21 (and authorized at 40 CFR 122.28), and then petition the Environmental Appeals Board to review any condition of the individual permit (40 CFR 124.19 as modified on May 15, 2000, 65 FR 30886).

I. Paperwork Reduction Act. The information collection required by this permit has been approved by Office of Management and Budget (''OMB'') under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* in submission made for the NPDES permit program and assigned OMB control numbers 2040–0086 (NPDES permit application) and 2040–0004 (discharge monitoring reports).

J. Economic Impact (Executive Order 12866). Under Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this proposed general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866.

K. Unfunded Mandates Reform Act. Section 201 of the Unfunded Mandates Reform Act (''UMRA''), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, *e.g.,* UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)''). UMRA section 102 defines ''regulation'' by reference to section 658 of Title 2 of the U.S. Code, which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (''RFA''). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (''APA'')], or any other law. * * *''

As discussed in the RFA section of this document, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that the proposed general permit does not contain a Federal requirement that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year.

EPA also believes that the proposed general permit will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments''

is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The proposed general permit also will not uniquely affect small governments because compliance with the permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed general permit.

L. Regulatory Flexibility Act. Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA takes the position that NPDES general permits are not subject to rulemaking requirements under APA section 553 or any other law. The requirements of APA section 553 apply only to the issuance of ''rules,'' which the APA defines in a manner that excludes permits. See APA section 551(4), (6) and (8). The CWA also does not require publication of a general notice of proposed rulemaking for general permits. EPA publishes draft general NPDES permits for public comment in the **Federal Register** in order to meet the applicable CWA procedural requirement to provide ''an opportunity for a hearing.'' CWA section 402(a), 33 U.S.C. 1342(a).

M. Signature. Accordingly, I hereby find consistent with the provisions of the RFA, that this proposed general permit will not have a significant impact on a substantial number of small entities.

Authority: CWA, 33 U.S.C. 1251 *et seq.*

Dated: July 5, 2000.

Alexis Strauss,

Acting Regional Administrator, Region 9.

[FR Doc. 00–17750 Filed 7–19–00; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

National Charters Booklet

Notice and Request for Comment

AGENCY: Farm Credit Administration.

SUMMARY: The Farm Credit Administration (FCA or Agency) is seeking comment on its May 3, 2000, publication entitled *National Charters* (Booklet). This Booklet, which the FCA sent to all Farm Credit System (System or FCS) institutions, provides guidance on the national charter application process and the national charter territory. Specifically, the Booklet explains how a direct lender association can apply for a national charter; what the territory of a national charter will be; and what conditions the FCA will impose in connection with granting a national charter. As explained in the Booklet, the FCA began accepting applications from System institutions on July 1, 2000. The FCA has received several requests from interested parties to publish the Booklet for public comment. Additionally, several interested parties have raised safety and soundness issues concerning national charters. While it is not subject to a notice and comment requirement, the Booklet has been on our Web site and available to the public since May 3, 2000. We agree that publishing the Booklet in the **Federal Register** and providing an additional opportunity for interested parties to comment will assist the FCA Board as it makes future chartering decisions.

DATES: Please send your comments to us on or before August 31, 2000.

ADDRESSES: You may send comments by electronic mail to ''reg-comm@fca.gov'' or through the Pending Regulations section of our Web site at ''www.fca.gov.'' You may also mail or deliver written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or send them by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

S. Robert Coleman, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Jennifer A. Cohn, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Objectives

Our objectives are to:

- Provide guidance for System institutions to apply for a national charter;
- Provide an additional opportunity for the public to comment on this guidance; and
- Address any safety and soundness concerns regarding national charters.

II. General Information

In July 1998, the FCA Board issued a philosophy statement that, among other things, announced the FCA's support for removing regulatory geographic barriers imposed on FCS institutions. Initially, the FCA approached this objective with a proposed rulemaking. On November 9, 1998, we published a proposed rule that would have eliminated geographic restrictions on direct lending, related services, and certain loan participations by amending or repealing several regulations in parts 611, 614, and 618. *See* 63 FR 60219 (Nov. 9, 1998). Although the 90-day comment period was scheduled to expire on February 9, 1999, we extended it until May 10, 1999, at the request of several commenters. *See* 63 FR 69220 (Dec. 16, 1998).

The FCA received considerable comments and insight during the 6-month public comment period on the proposed rule. On April 25, 2000, we published a final rule that deleted the requirements for a System institution to provide notice to or seek consent from other System institutions when it buys participation interests in loans originated outside its chartered territory. *See* 65 FR 24101 (Apr. 25, 2000). This final rule became effective on May 25, 2000. *See* 65 FR 33743 (May 25, 2000). Other parts of our original proposal—those that would have removed restrictions on direct lending and related services outside an institution's designated territory—remain pending.

III. National Charters

Through an Informational Memorandum dated March 8, 2000, issued to all FCS institutions, the FCA Board announced plans to remove the restrictions on direct lending and related services through the chartering process. The FCA exercises its powers to issue or amend charters under sections 2.0, 2.10 and 5.17 of the Farm Credit Act of 1971, as amended.

Through a second Informational Memorandum to all FCS institutions dated May 3, 2000, the FCA Board provided guidance on national charters by publishing a booklet entitled *National Charters*. The Booklet explains (1) how a direct lender association can apply for a national charter; (2) what the territory of a national charter will be;

and (3) that the FCA will impose certain conditions in connection with granting a national charter. The FCA published this Booklet after gathering information on removing regulatory geographic restrictions during the listening sessions at the Agency's annual Information Exchange meetings between the FCS institutions and the FCA Board held in March and April 2000.

The FCA believes removing unnecessary geographic restrictions through national charters is in the best economic interest of rural America. National charters will help level the playing field for all participants and provide benefits to farmers, ranchers and rural America.

National charters can improve safety and soundness risk by diluting the geographic risk in a System institution's loan portfolio. The FCA believes associations that hold national charters will be more geographically diverse and financially stronger than if we continue to restrict institutions to limited geographic areas, which can be prone to isolated weather and economic adversities.

As the safety and soundness regulator of the Farm Credit System, we are sensitive to any risk affecting System institutions. In order to correct any safety and soundness problems in the Farm Credit System, the FCA will continue to use its examination and enforcement powers to correct problems in FCS institutions.

National charters further support our July 1998 philosophy statement by removing existing geographic constraints on System entities. Removing these artificially imposed constraints will promote greater efficiency, improve customer service, and enhance the System's ability to meet the current and future needs of rural America. Furthermore, this action will allow FCS institutions to better structure their businesses as market forces and customer demands change. The FCA believes national charters will provide farmers, ranchers, and other eligible rural residents with more choices, which we believe will improve the availability, price, and quality of agricultural credit. Finally, national charters benefit rural communities as artificial regulatory territorial boundaries are removed. System institutions may elect to form new partnerships and alliances with each other and other commercial firms, which will benefit all of agriculture and rural America over time.

National charters will enable direct lender associations in the System to provide seamless credit to agricultural producers that do business across the United States without the burdensome and unnecessary notice and consent requirements currently in place. Removing these geographic constraints also will allow System institutions to better manage their credit risks by diversifying the geographic risk in their loan portfolios.

The Booklet imposes no requirements on System institutions or others. Rather, it is an announcement of our intended position on future chartering actions. Accordingly, it is not subject to a notice and comment requirement. Nevertheless, we are providing this notice and additional opportunity to comment to allow input from all interested parties as the FCA Board considers its future chartering decisions. We are taking this action in response to several requests from interested parties.

IV. National Charter Applications

The Booklet states that we will process all national charter applications we receive between July 1, 2000, and September 30, 2000, so that, if the FCA Board approves them, they will all be effective on January 1, 2001. By this notice, we seek additional comments on the Booklet and on the issues that national chartering raises. The Booklet is set forth below in its entirety. If you prefer to download the Booklet from our Web site, it has been posted there since May 3, 2000. The FCA Board will consider all comments as it makes future chartering decisions.

Dated: July 14, 2000.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

National Charters

National Charters:
What You Need to Know to Apply

This booklet provides guidance on the national charter application process and the national charter territory.

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May 3, 2000

If you have any questions about applying for a national charter or other chartering matters, please contact:

Tom McKenzie, Director
Office of Policy and Analysis
(703) 883-4414
mckenziet@fca.gov

Ed Harshbarger, Director
Risk Analysis Division
(703) 883-4455
harshbargere@fca.gov

For additional information, visit the FCA's Web site:
www.fca.gov

National Charters

Any Farm Credit System (FCS or System) direct lender association can apply for a national charter. If a direct lender association is part of a parent/operating subsidiary structure, both the parent and all subsidiaries must apply for a national charter at the same time. A full national charter includes the 50 states and the Commonwealth of Puerto Rico where a direct lender association can provide credit and related services. The Farm Credit Act of 1971 (Act), however, provides for various consents before the Farm Credit Administration (FCA) may amend the charters of direct lender associations to include the territories of certain other institutions. Those institutions are:

- Federal Land Bank Association of North Alabama, FLCA,
- Federal Land Bank Association of North Mississippi, FLCA,
- Federal Land Bank Association of South Alabama, FLCA,
- First South Production Credit Association,
- FLBA of South Mississippi,
- Louisiana Federal Land Bank Association, FLCA,
- Production Credit Association of Eastern New Mexico,
- Production Credit Association of New Mexico, and
- Production Credit Association of Southern New Mexico.

National charters will not permit associations to extend lending authorities in the listed institutions' territories unless the stockholders of those institutions consent. Those institutions' funding banks, and, for the New Mexico PCAs, their boards of directors, must also consent to the charter changes. National charters will include the territory of any of the above listed institutions for which consent is provided. Separately, the FCA is proposing a rule that will provide specific direction on voting procedures by these institutions. Also, associations can continue to seek consent from these institutions on a case-by-case basis under existing regulation § 614.4070.

Having a national charter will allow a direct lender association to expand its lending and related services activities. Even if a particular association does not apply for a national charter, its territory will be included in the charter of other associations that receive a national charter (except for institutions for which consent is required, as discussed above).

An association that receives a national charter must comply with certain business planning requirements. As discussed more fully in the section of this booklet entitled "Ensuring Sound, Adequate, and Constructive Credit and Related Services," each association must identify its competitive strategy and incorporate this strategy into its business planning process. An appropriate planning process will help associations take advantage of their special skills and operational capacities in identifying specific geographic regions, markets, or products for expanded activities.

A national charter will not change FCA regulations covering FCS corporate governance issues. A borrower who is an eligible farmer, rancher, aquatic producer or harvester, or eligible cooperative is entitled to hold voting stock and to serve as a director in the System association from which he or she has a loan, regardless of geographic location. The national charter provides more geographic diversification for selecting eligible stockholder directors. Each association's bylaws should address qualification requirements for members of its board of directors and any restrictions for serving on the board of more than one System association. See FCA regulations for additional guidance on association governance issues.

National Charter Application

Beginning July 1, 2000, any direct lender association may submit its application to the Secretary of the FCA Board. For most associations that apply by September 30, 2000, the application will consist of only one document — a certified resolution approved by the association's board of directors. The association does not need to submit its application to its supervising bank nor does the application need to include any other items listed in subpart G of part 611 of FCA regulations. The FCA may, however, require an association to submit additional information in its application if circumstances warrant. For example, the FCA may require associations operating under an order to cease and desist or a formal agreement to provide additional information in their national charter applications. The FCA may deny an association's request for a national charter if, for example, safety and soundness concerns exist.

Exhibit 1 contains a "model" resolution that associations may use. An association's board may adopt a different resolution, but to satisfy the FCA's application requirement the resolution must incorporate the association board's acceptance of the FCA's conditions of approval (discussed in the section of this booklet entitled "Chartering Conditions" and contained in Exhibit 2). The Corporate Secretary of the association's board must sign the resolution to certify board approval.

The FCA plans to expedite action on national charter applications received by September 30, 2000. All national charter applications received by this date, if the FCA Board approves them, will become effective on January 1, 2001. National charters will define the territory covered by the amended charter and the conditions the FCA imposes. The FCA will process applications received on or after October 1, 2000, using standard procedures.

Ensuring Sound, Adequate, and Constructive Credit and Related Services

System institutions must remain responsive to the needs of all types of agricultural producers and eligible FCS customers having a basis for sound and constructive credit. Each institution must continue to do its part in meeting the System's public-policy mission as defined in sections 1.1, 4.19, and other relevant provisions of the Act.

Each association that receives a national charter must revise its business plan (required by FCA regulation § 618.8440) to define where it plans to provide new or expanded services and demonstrate that it has sufficient capacity to provide those services in a safe and sound manner. In the context of national charters, revised business plans must be commensurate with lending and related services activities. The section of this booklet entitled "Lending Outside the Local Service Area – Business Planning Considerations," provides guidance on revising business plans to reflect the new opportunities that national charters offer.

System institutions must also continue to serve local customers by providing adequate credit and related services to them. Each association's national charter will define its Local Service Area (LSA). An association's LSA is its chartered territory as it exists on the day before the effective date of its national charter. The FCA expects associations to serve their LSAs by providing adequate credit and related services as contemplated in the Act. Associations must develop LSA Plans that address how they will continue to serve their local customers. These LSA Plans will supplement the business plan required by § 618.8440 of the regulations. The section of this booklet entitled "Local Service Area – Criteria and Plan Content" provides additional guidance for developing an LSA Plan.

Chartering Conditions

To ensure associations consider the requirements discussed in the previous section, the FCA will impose the following conditions on approving an association's request for an amended charter to expand its territory:

- The association will be obligated to extend credit and offer related services to all eligible and creditworthy customers in its LSA;
- The association may exercise only those authorities authorized by its previous charter until it transmits to the FCA[1] a revised business plan, including an LSA Plan, that has been adopted by its board of directors and that incorporates the requirements set forth in this booklet; and
- The association must update its LSA Plan annually as part of adopting the operational and strategic business plan required by § 618.8440.

The association's board, as part of the resolution seeking a national charter, must accept these conditions. The "model" resolution in Exhibit 1 contains language that will meet this requirement. The exact language of the conditions is provided in Exhibit 2. The conditions must be attached to the association board's resolution.

Identifying Funding Bank Affiliation

A national charter will not change the funding and supervisory bank with which an association is affiliated. If an association wishes to change its funding bank affiliation, it must seek concurrence from its funding bank and submit a request separately from its national charter application.

Requesting Approval for Other Chartering Actions

In addition to accepting national charter applications, the FCA will continue to accept applications for mergers, consolidations, and ACA restructurings. Associations should keep these applications separate from national charter requests for several reasons. First, these applications require stockholder disclosure and approval, while national chartering requests do not. Second, the FCA will process all national chartering requests received by September 30, 2000, on a separate track to provide a uniform effective date. The FCA may not be able to meet this objective for a request that is combined with other applications. If associations with national charters merge or consolidate, their national charters will be transferred to the continuing associations.

PCAs and FLCAs may submit applications to convert to ACAs without merging with existing associations by creating temporary companion entities. To clarify the application process, the FCA anticipates issuing additional information later this year on how to apply for an ACA conversion. As with other chartering applications, associations should keep ACA conversion applications separate from national charter applications.

Those associations whose mergers, consolidations or restructurings will be effective by the close of business on December 31, 2000, may submit a national charter application for the continuing or resulting association. Each constituent association's board must submit a resolution requesting the national charter, which will be effective on January 1, 2001. If the transaction will not be effective until after January 1, 2001, the constituent associations should apply separately for national charters, which will be effective from January 1, 2001, until the transaction becomes effective.

Requesting a Transfer of Lending Authority

All remaining Federal land bank associations (FLBAs) should be direct lender associations by October 1, 2000. Any current FLBA that will become a direct lender association by October 1, 2000, may submit an application before September 30 for a national charter for the resulting FLCA. Otherwise, an FLBA may not apply for a national charter. The FCA will not issue national charters to FLBAs because they are lending agents of System banks and not direct lender associations.

Using Trade and Official Institution Names

The FCA Board is adopting a new policy on FCS institution names that explains how System institutions may use official and trade names and the criteria for official names. Institutions may continue to seek new official names. The FCA will process name change requests separately from national charter applications.

1. Each direct lender association must submit its revised business plan, which includes the LSA Plan, to the FCA Field Office responsible for examining the institution before it lends or provides related services outside its LSA. FCA examiners will evaluate an association's revised business plan, including the LSA Plan, through the Agency's examination and supervisory programs. The FCA will not prior-approve these plans.

Lending Outside the Local Service Area — Business Planning Considerations

A direct lender association may offer all lending and related service programs authorized by the Act and FCA regulations within its national charter territory. The FCA expects associations' boards of directors and senior management to establish appropriate controls to effectively implement their national charters and manage risk. The association's board and senior management must ensure that adequate operational and financial capacity exists and that appropriate procedures and controls are in place before lending and providing related services outside the LSA. If an institution extends loans and offers related services beyond its LSA, the potential exists that its risk exposure will increase, particularly if the institution offers new products, expands product delivery, or operates in new regions. The section of this booklet entitled "Local Service Area – Criteria and Plan Content" describes the LSA and related planning requirements.

An institution's business plan is a cornerstone of sound business management and risk control. Accordingly, an association with a national charter must revise its business plan to reflect the change in its operating environment created by the national charter. Revisions to the business plan should be commensurate with planned lending and related services activities outside its LSA. The revised business plan must comply with § 618.8440 and must:

- Assess the economic and market conditions facing the association;
- Define where an association's board plans to expand the association's lending and related services activities outside its LSA. The board may choose to target neighboring counties, states, or the entire national chartered territory.[2] The association may also choose to target a specific geographic area or a specific market or product, depending on its strategic focus; and
- Evaluate the effects that lending outside the association's LSA may have on meeting the association's objectives within its LSA.

This section provides guidance to System associations for developing their revised business plans as they expand their business activities.

Why do associations need to revise their business plans?

Associations need to revise their business plans to ensure they implement their national charters in a safe and sound manner. They also need to revise their business plans so they can identify appropriate market segments for their associations and address how they plan to lend outside their LSA. The business plan is the primary control for an association's board to ensure its lending is consistent with its financial and operational capacities. Business planning requires an association's board to consider all implications (risks and rewards) of lending in expanded areas. Therefore, the revised business plan ensures the association conducts lending outside its LSA in a reasonable manner, while not adversely affecting service to its LSA.

How should an association determine its scope of lending and related services outside its LSA?

An association should evaluate its existing market area and identify its strengths and weakness. It should also identify geographic areas or market segments within its national charter where it can take advantage of its special skills or expertise, broaden its lending base, or diversify its loan portfolio. To help determine an association's goals and objectives for lending and providing related services outside its LSA, it should match its skills, expertise and financial capacity with the opportunities provided by a national charter.

What are the association board's responsibilities and how have they changed?

An association board's responsibilities increase in direct relationship to the new opportunities implemented and additional risks associated with lending outside traditional areas of expertise and the LSA. The board of directors should be actively involved in planning and carrying out new strategies. The board should consider appropriate operating parameters for lending outside the LSA commensurate with the association's risk-bearing capacity and the board and management's ability to control any risks associated with its business expansion plans.

2. Subject to statutory restrictions in certain geographic areas where the consent of shareholders and certain institutions is required.

When can a direct lender association begin to lend and provide related services outside its LSA?

An association can lend and provide related services outside its LSA after its national charter is effective and it submits a revised business plan, including an LSA Plan, to the FCA. The conditions for a national charter require an association's board to develop, approve, and implement a business plan, in accordance with § 618.8440, that fully incorporates the institution's plans for expansion of lending activities before making any loans and providing related services outside its LSA.

Does an association have to revise its business plan if it only wants to make a few loans or provide limited related services in a neighboring county?

Yes, but the depth of analysis in the business plan addressing lending and related services outside the LSA should be commensurate with the planned level of activity. For example, if the association plans to make only a few loans in neighboring counties outside its LSA, and this additional activity is inconsequential relative to risk funds, then the discussion in the business plan need not be extensive.

However, even if an association makes only a few loans outside its LSA, it may need to revise its loan pricing and underwriting policies to document clearly how these two critical areas will be affected. As with all lending, the association must comply with applicable regulations governing loan pricing and underwriting.

What if an association does not want a national charter or does not intend to lend or provide related services outside its LSA?

Each association's board must choose whether to apply for a national charter. If the association chooses not to apply for a national charter, it still should consider revising its business plan to reflect changes in its operating environment. As other associations with national charters begin to offer products and services to customers in its territory, the competitive environment may change significantly. Accordingly, business planning is important for all institutions.

A national charter does not require an association to lend or provide related services outside its LSA. An association's board should use its business plan to direct "how, when, and where" the association intends to lend and provide related services outside its LSA.

How will revised business plans be evaluated and who will perform the evaluation?

Each direct lender association will be required to submit its revised business plan (including the LSA Plan discussed in the section of this booklet entitled "Local Service Area – Criteria and Plan Content") to the Office of Examination (OE) Field Office responsible for the ongoing examination of the association. Business plans must be submitted before the association begins to lend or provide related services outside of its LSA. After the first year, each association will submit a revised business plan as part of its annual submission to OE. Examiners will evaluate each association's business plan as part of the FCA's risk-based examination and supervisory program for that association. The FCA may require associations to submit additional information to facilitate the monitoring of their lending and related services inside and outside their LSAs. The FCA may also ask associations to submit their business plans in electronic format to facilitate storage and review.

What key elements should be addressed in a revised business plan?

The association's board and management should assess the economic and market conditions facing the association and its financial and operating capacity to succeed. Specifically, a board of directors should consider:

- How extending loans and offering related services outside the association's LSA will affect the association's ability to meet its goals within the LSA;
- How it will direct and control its association's lending and related service activities conducted beyond the LSA to ensure that such activities are conducted in a safe and sound manner;
- How programs for providing credit and related services to a broader customer base will affect organizational efficiency, customer service, risk management, and operational capabilities;
- What are the specific operating objectives and strategies for each program initiative;
- What types and amount of loans and related services will be offered in new markets;
- What is its risk-tolerance for loan volume outside the LSA, in relation to the association's risk-bearing capacity and loan portfolio concentrations;

- What will the underwriting criteria be for loans and related services that will be offered in new geographic markets, taking into consideration the association's management capabilities and credit expertise and the servicing requirements of loans made outside the LSA; and

- How its loan pricing policies and strategies will achieve equitable rate treatment for lending activities inside and outside the LSA.

How should associations view loan pricing in the context of national charters?

Loan pricing is a critically important function in an association's operations and takes on added importance as national charters are implemented. Associations must establish equitable interest rates for all borrowers. Loan-pricing decisions directly affect the safety and soundness of associations through their impact on earnings, credit risk and, ultimately, capital adequacy. As such, associations must price loans in a manner sufficient to cover costs, provide the capitalization needed to ensure the association's financial viability, protect the association against losses, provide for stockholder needs, and allow for growth. Associations must have appropriate policy direction, controls, and monitoring and reporting mechanisms to ensure appropriate loan pricing both inside and outside their LSAs.

An association's board and management have the responsibility to establish appropriate loan pricing policies. Loan pricing decisions should ensure that the association is generating an adequate level of earnings, as measured by business plan goals to ensure the association achieves and maintains the optimum level of capital prescribed in the business and capital plans. Loan pricing must also achieve equitable interest rate treatment for lending activities among borrowers.

The importance of loan pricing requires that the association's board establish a formal policy that directs and controls pricing decisions. Section 614.4150(f) of FCA regulations requires each association to adopt a formal policy for loan pricing. As national charters are implemented, an association board should update loan pricing policies to ensure equitable treatment of borrowers in the new lending environment.

Do associations need to comply with special capital requirements to receive a national charter?

No. Associations must continue to comply with the existing capital requirements in part 615 of FCA regulations and make any necessary adjustments in their capital and business plans to reflect projected levels of risk in their loan portfolios. However, boards of directors may need to reevaluate the associations' optimum capital levels in light of the new environment. Depending on the business strategy selected, capital needs could go up or down.

What other regulations do association boards and management need to consider?

Existing regulations address several important matters that apply to all lending activities, whether inside or outside the LSA. Associations must ensure continued compliance with all applicable FCA regulations and revise their related policies and procedures to ensure they are appropriate for extending lending and related services beyond the LSA. Pertinent regulations that association boards should review as they revise business plans include:

§ 614.4150	Lending policies and loan underwriting standards.
§ 614.4155	Interest rates (requires adoption of an interest rate plan).
§ 614.4160	Differential interest rate programs.
§ 614.4510	General (loan servicing requirements).
§ 615.5200	General (capital adequacy).
§ 618.8015	Policy guidelines (related services).
§ 618.8430	Internal controls.
§ 618.8440	Planning.

Whom should associations contact if they have questions about these regulations as they revise their business plans?

An association should contact the Director of the OE Field Office with oversight responsibility for that association.

Will associations be required to disclose information about lending and related services outside their LSA?

Summary information on lending and related services inside and outside of the LSA should be made available to the stockholders and the public. One option would be to include this explanation in the Management Discussion and Analysis (MD&A) section of an association's annual report. Consequently, associations must segment their loan portfolios to ensure easy identification of loans made both within and outside their LSA.

The FCA Call Report provides routine information for reporting and monitoring of System activities and risk exposure. The FCA may revise submission requirements to include information on lending and related services offered inside and outside an association's LSA. Any revisions to the Call Report requirements will be made as part of the annual update process.

Local Service Area — Criteria and Plan Content

As national charters are implemented, the FCA expects System institutions to continue to serve their local customers by providing adequate credit and related services. Associations should be responsive to the credit needs of all types of local agricultural producers having a basis for credit. As previously discussed, the FCA will require each direct lender association applying for a national charter to develop an LSA Plan to address how it will continue to serve its local customers.

When the FCA Board adopted its Philosophy Statement on July 14, 1998, it realized that removing geographic restrictions will help ensure the System continues to meet the current and future needs of agriculture and rural America. The FCA believes section 1.1 of the Act provides an excellent summary of the System's public-policy mission. As charters are expanded, each association should accomplish this mission mandate first in its LSA before expanding to new markets.

This section provides guidance to System associations for developing their LSA Plans to better serve their public-policy mission.

What is the purpose of an LSA?

An LSA is that part of a direct lender association's chartered territory where it is obligated to extend credit and offer related services to all eligible and creditworthy customers.

The purpose of an LSA is to ensure each direct lender association does its part to help the FCS meet its public-policy mission. This mission includes providing dependable, sound, adequate, competitive, and constructive credit and related services to all eligible farmers and ranchers, aquatic producers and harvesters, their cooperatives, select farm-related businesses, and rural homeowners (collectively called "customers").

What is an LSA Plan?

An institution's LSA Plan includes an assessment of its LSA and strategies to ensure adequate service in its LSA. The LSA Plan is an integral supplement to the business plan required by § 618.8440. As discussed in the section entitled " Lending Outside the Local Service Area — Business Planning Considerations," the FCA will evaluate the LSA Plan as part of its examination and supervisory programs for each association.

The LSA Plan defines how the institution will meet the goals for its obligation to provide credit and related services to eligible customers.

How should each direct lender association assess service in its LSA territory?

Each association should assess service in its LSA territory by describing all segments of its existing market and evaluating how well it is serving each segment. In this context, market is defined broadly to include all existing and potential customers in each segment found within the LSA and is not limited only to those segments currently being served.

The assessment should identify any underserved segments of the territory and should be used to establish strategies to better serve any underserved segments identified in the LSA.

What types of information should the LSA territory assessment include?

Each direct lender association should gather information for its LSA that will allow it to develop strategies and consider alternatives to ensure the institution is providing adequate service to all market segments. Examples of such information include:

- Potential and existing customers in all market segments of the LSA.
- Farm typology (including ranching and aquaculture) — size, number, and commodities.
- Demographic data on median farm income, distribution of farm income, and the nature of farming enterprises.
- Sources and amounts of off-farm income and other employment opportunities.
- Level of competition from others for lending, investments, or related services.

- The direct lender association's capacity and constraints, including the size and financial condition of the institution, the economic climate, safety and soundness considerations, and any other factors that significantly affect the institution's ability to provide lending, investments, or related services in its LSA.
- The institution's current performance for serving each segment of its market and the performance of other lenders serving the market.

Where can this type of information be found?

The LSA Plan must incorporate a broad variety of data from many different sources. A valuable place to start is the United States Department of Agriculture 1997 Census of Agriculture. You can visit their Web site at: http://www.nass.usda.gov/census/

How does an association determine whether it is adequately serving its market?

The LSA establishes where each direct lender association is obligated to extend credit and offer related services. Each direct lender association must provide dependable, sound, adequate, competitive, and constructive credit and related services to all eligible and creditworthy customers within its LSA.

The LSA Plan should also make clear that the association must spend its resources to first achieve its public-policy mission within its LSA. Mission achievement creates the expectation that if left with only $1 to lend, the direct lender association would select the customer in its LSA over a comparable opportunity outside the LSA.

What type of strategies should the LSA Plan address to ensure adequate service?

1. Lending Activity to Meet Core Objectives of the Farm Credit System in the LSA: Providing dependable, sound, adequate, competitive, and constructive credit and related services to all eligible and creditworthy customers. The LSA Plan should also address providing credit to rural homeowners within statutory requirements.
2. Innovative or Flexible Underwriting Practices: Using innovative or flexible lending practices in a safe and sound manner to address the credit needs of underserved and limited resource individuals or geographies. Examples include participation with Federal, state and local credit assistance programs to provide agricultural credit to specific market segments.
3. Alliances: Rural community development activities that may range from partnerships, strategic alliances, application of technology, legislative, and regulatory changes that provide more services to market segments within the LSA.
4. Related Services: Related financial services and technical assistance offered to eligible customers.
5. Use of Investment Opportunities: Purchase of assets that finance agriculture and related industries or otherwise support the mission of the Farm Credit System to increase the flow of funds to agriculture and rural markets.

Exhibit 1

XXX Association[1]
Board of Directors Resolution

WHEREAS, the Farm Credit Administration (FCA) has announced that its priority is to remove geographic barriers in the Farm Credit System by granting national charters to direct lender associations, provided the associations requesting national charters agree to certain Conditions of Approval (Conditions);

WHEREAS, a national charter will offer XXX Association the potential of lowering its cost of credit, improving its customer service and enhancing its risk management, thereby enabling it to meet the current and future credit needs of agriculture and rural America;

WHEREAS, the Board of Directors of XXX Association believes it would be in the best interests of its stockholders to exercise its authorities in those areas it deems appropriate throughout the United States and the Commonwealth of Puerto Rico;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of XXX Association hereby authorizes its officers to apply to the FCA for a national charter and take any other action the officers deem necessary to obtain such charter.

BE IT FURTHER RESOLVED that the Board of Directors of XXX Association agrees to the attached Conditions, which the FCA requires in granting a national charter.

I, (name of corporate secretary), Corporate Secretary of XXX Association, certify that this resolution was adopted by the Board of Directors of XXX Association at a meeting duly held on (date).[2]

_____ _____

(Date) **(Name), Corporate Secretary**

1. Replace XXX Association with the name of your institution.
2. Bolded text is required.

Exhibit 2

Conditions of Approval

The Farm Credit Administration (FCA) imposes these Conditions of Approval under 12 U.S.C. § 2261 in connection with granting XXX Association's application for an amended charter to expand its territory. These Conditions are effective on the effective date of XXX Association's amended charter.

1. XXX Association is obligated to extend credit and offer related services to all eligible and creditworthy customers in its Local Service Area (LSA).

2. XXX Association may exercise only those authorities authorized by its previous charter until it transmits to the FCA a revised business plan, including an LSA Plan, that has been adopted by its board of directors and that incorporates FCA's guidance on these plans. This guidance is contained in FCA's booklet entitled "National Charters" dated May 3, 2000.

3. XXX Association must update its LSA Plan annually as part of adopting the operational and strategic business plan required under FCA regulation § 618.8440.

These Conditions will remain in effect until the FCA amends, waives, or terminates them. If, at any time, the FCA believes it appropriate to take any action affecting XXX Association, nothing in these Conditions prevents the FCA from doing so.

[FR Doc. 00–18283 Filed 7–19–00; 8:45 am]
BILLING CODE 6705–01–C

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

July 13, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 21, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0280.

Title: Section 90.633(f) and (g), Conventional Systems Loading Requirements (Wide Area Systems).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or tribal Governments.

Number of Respondents: 15.

Estimate Time Per Response: 0.5 to 1.0 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 10 hours.

Total Annual Costs: $2,200.

Needs and Uses: The Commission normally authorizes licenses 800 and 900 MHz radio systems to cover a confined area of operation. The Commission's responsibility is necessary, in part, to maintain spectrum efficiency since other licensees reuse these frequencies. However, rule sections 47 U.S.C. Sections 154(j) and 309(j), as amended, provide applicants who need specially configured wide area or ribbon systems the opportunity to request authorization for such systems upon a showing of need.

OMB Control Number: 3060–XXXX.

Title: Accessibility of Programming Providing Emergency Information, Section 79.2

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; and Individuals or households; not-for-profit institutions; and State, local, or tribal government.

Number of Respondents: 200.

Estimate Time Per Response: 1 to 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 300 hours.

Total Annual Costs: $16,200.

Needs and Uses: With adoption of MM Docket 95–176, FCC 00–136, Second Report and Order, the FCC will require all video programming distributors to make local emergency information that they provide to viewers accessible to persons with hearing disabilities through closed captioning or by another method of visual presentation. Previously the Commission adopted rules to increase gradually the amount of captioned new programming offered over a period of years, and generally, will require that 100% of all new programming be captioned at the end of a transition period. This rule ensures that people with hearing disabilities will receive critical emergency information in an accessible format during the transition period. Viewers may file complaints alleging violation of the new rule, 47 CFR Section 79.2. The Commission will notify video programming distributors of the complaint, and the distributor will provide the Commission with a response to the complaint.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–18442 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–00–33–E (Auction No. 33); DA 00–1558]

Auction of Guard Band Manager Licenses for the 700 MHz Bands Updated Attachments and Filing Deadlines Reminder; Additional Due Diligence Information

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document amends two of the attachments previously provided in the Auction No. 33 Announcing Public Notice for the upcoming auction of Guard Band Manager licenses in the 700 MHz bands (''Auction No. 33'') scheduled to commence on September 6, 2000. This document also provides additional due diligence information.

DATES: Auction No. 33 is scheduled for September 6, 2000.

FOR FURTHER INFORMATION CONTACT: Howard Davenport, Attorney, Auctions Legal Branch at (202) 418–0660, or Linda Sanderson, Project Manager, Auctions Operations Branch at (717) 338–2888.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released July 12, 2000. The complete text of the public notice, including Attachments C and H, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, D.C. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov.*

List of Attachments available at the FCC:

Attachment C—Electronic Filing and Review of the FCC Form 175

Attachment H—Accessing the FCC Network to File FCC Form 175

1. The Wireless Telecommunications Bureau (''Bureau'') issued a *Public Notice* that set forth the filing requirements, minimum opening bids, and other procedural matters to govern Auction No. 33. *See* Auction of Licenses for the 700 MHz Guard Bands,

Scheduled for June 14, 2000, Auction Notice and Filing Requirements for 104 Licenses in the 700 MHz Guard Band, Minimum Opening Bids and Other Procedural Issues, *Public Notice*, DA 00–781, 65 FR 21182, (April 20, 2000), (''*Auction No. 33 Announcing Public Notice*''). Effective Monday, July 17, 2000, the Bureau will permit the filing of FCC Forms 175 (''short-form applications'') via the Internet. As a result, two of the attachments previously provided in the *Auction No. 33 Announcing Public Notice* have been updated. Specifically, the Bureau has amended Attachment C and Attachment H.

2. As a reminder, the filing deadlines associated with Auction No. 33 are listed below:

Opening of the FCC Form 175 Filing Window—July 18, 2000; 12:00 noon ET
Filing Deadline for FCC Form 175—August 1, 2000; 6:00 PM ET
Upfront Payment Deadline—August 18, 2000; 6:00 PM ET
Deadline For Remote Bidding Software Orders—August 21, 2000; 6:00 PM ET
Mock Auction—August 31, 2000
Auction Start Date—September 6, 2000

Due Diligence Information

3. The Bureau also provides the following additional due diligence information to supplement the information included in the *Auction No. 33 Announcing Public Notice*. In addition to the filings listed in the *Auction No. 33 Announcing Public Notice*, potential bidders should also be aware of a Petition For Review of the *700 MHz Second Report and Order*, filed in the United States Court of Appeals for the District of Columbia Circuit. The case is *FreeSpace Communications, L.L.C.* v. *FCC,* Case No. 00–1164 (DC Circuit filed April 18, 2000). *See*, Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, *Second Report and Order*, 65 FR 17594 (April 4, 2000).

4. This information was compiled as of July 11, 2000 and supplements the list in the *Auction No. 33 Announcing Public Notice*, which was compiled as of April 10, 2000. This list is subject to additional supplementation. The Commission makes no representation that the April 10, 2000 compilation and the July 11, 2000 supplement include every proceeding pending as of July 11, 2000 relevant to the 700 MHz Guard Band licenses or licensees. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 33 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 33 are strongly encouraged to continue such research during the auction.

Federal Communications Commission.

Margaret W. Wiener,

Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau.

[FR Doc. 00–18444 Filed 7–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before September 18, 2000.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve's Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* The HMDA Loan/Application Register.

Agency form number: FR HMDA–LAR.

OMB control number: 7100–0247.

Frequency: Annual.

Reporters: State member banks, subsidiaries of state member banks, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations under section 25 or 25A of the Federal Reserve Act.

Annual reporting hours: 121,714 hours.

Estimated average hours per response: Banks, 202 hours; mortgage subsidiaries, 160 hours.

Number of respondents: Banks, 517; mortgage subsidiaries, 108. Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 2801 *et seq.*). The data are not given confidential treatment, however, information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

Abstract: The Federal Reserve's Regulation C, including the information collection, applies both to depository and to for-profit non-depository institutions. The information reported and disclosed pursuant to this collection is used to further the purposes of HMDA. These include: (1) to help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statues.

2. *Report title:* International Applications and Prior Notifications Under Subpart B of Regulation K.

Agency form number: FR K–2.

OMB control number: 7100–0284.

Frequency: Event-generated.

Reporters: Foreign banks.

Annual reporting hours: 600 hours.

Estimated average hours per response: 40 hours.

Number of respondents: 15.

Small businesses are not affected.

General description of report: This information collection is required to obtain or retain a benefit sections 7 and 10 of the International Banking Act (12 U.S.C. 3105 and 3107). The applying organization has the opportunity to request confidentiality for information that it believes will qualify for a Freedom of Information Act exemption.

Abstract: Foreign banks are required to obtain the prior approval of the Federal Reserve to establish a branch, agency, or representative office or to acquire ownership or control of a commercial lending company in the United States or to change the status of any existing office in the United States. The Federal Reserve needs the information to fulfill its statutory obligation to supervise foreign banking organizations with offices in the United States.

Board of Governors of the Federal Reserve System, July 17, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–18440 Filed 7–19–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President), 33 Liberty Street, New York, New York 10045–0001:

1. Caixa Geral De Depositos, S.A., Lisbon, Portugal; to retain approximately 8.8 percent of the outstanding voting shares of Banco Commercial Portugues, S.A., Oporto, Portugal and thereby indirectly acquire shares of BPABank, National Association, Newark, New Jersey.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of First Security Corporation, Salt Lake City, Utah, and thereby indirectly acquire voting shares of First Security Bank, N.A., Ogden, Utah; First Security Bank of New Mexico, N.A, Albuquerque, New Mexico; First Security Bank of Nevada, Las Vegas, Nevada; and First Security Bank of California, N.A., West Covina, California.

In connection with this application, Wells Fargo proposes to acquire the nonbanking subsidiaries of First Security Corporation, including First Security Mortgage Company, Salt Lake City, Utah, and thereby engage in lending activities pursuant to § 225.28(b)(1) of Regulation Y; First Security Leasing Company and Bankers Equipment Alliance, Inc., both of Salt Lake City, Utah, and thereby engage in leasing activities pursuant to § 225.28(b)(3) of Regulation Y; First Security Investment Services, Inc., and First Security Investment Management Inc., both of Salt Lake City, Utah, and thereby engage in investment and financial advisory activities pursuant to § 225.28(b)(6) of Regulation Y; First Security Specialized Services, Inc., Salt Lake City, Utah, and thereby engage in providing financial advisory and management consulting services pursuant to §§ 225.28(b)(6) and (9) of Regulation Y; First Security Life Insurance Company of Arizona, Phoenix, Arizona, and thereby engage in reinsuring credit-related insurance pursuant to § 225.28(b)(11)(i) of Regulation Y; and First Security Processing Services, Inc., Salt Lake City, Utah, and thereby engage in providing

bankcard and ATM transaction services for other financial institutions pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–18323 Filed 7–19–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 2000.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Central Texas Bankshare Holdings, Inc., Columbus, Texas; and Colorado County Investment Holdings, Inc., Wilmington, Delaware; to acquire 47 percent of the voting shares of Hill Bancshares Holdings, Inc., Weimar, Texas, and thereby indirectly acquire Hill Bancshares, Inc., Wilmington, Delaware, and Hill Bank & Trust Company, Weimar, Texas.

Board of Governors of the Federal Reserve System, July 17, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18373 Filed 7–19–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 2000.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President), 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Patapsco Bancorp, Inc., Dundalk, Maryland; to acquire Northfield Bancorp, Inc., and thereby indirectly acquire Northfield Federal Savings Bank, both of Baltimore, Maryland, and thereby to operate a savings association pursuant to Section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–18322 Filed 7–19–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 2000.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. Union Bankshares Company, Ellsworth, Maine; to acquire 100 percent of the common stock of Mid-Coast Bancorp, Inc., Waldoboro, Maine, and thereby indirectly acquire The Waldoboro Bank, F.S.B., Waldoboro, Maine, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 17, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18374 Filed 7–19–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cooperative Agreement To Support the Waste-Management Education and Research Consortium, New Mexico State University; Notice of Intent to Accept and Consider a Single Source Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to accept and consider a single source application for the award of a cooperative agreement to the Waste-Management Education and Research Consortium (WERC), New Mexico State University, to support the Annual International Environmental Design Contest. The estimated amount is $100,000 per annum. Competition is limited because the WERC International Environmental Design Contest is the only college level environmental design competition of its kind.

DATES: Submit applications by August 21, 2000.

ADDRESSES: An application is available from and should be submitted to: Maura Stephanos, Grants Management Specialist, Grants Management Office (HFA–520), Division of Contracts and Procurement Management, Office of the Director, Food and Drug Administration, 5600 Fishers Lane, rm. 2129, Rockville, MD 20857, 301–827–7183. (Applications hand-carried or commercially delivered should be addressed to rm. 2129, 5630 Fishers Lane, Rockville, MD 20857; FAX 301–827–7106; e-mail address: mstepha1@oc.fda.gov.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Maura Stephanos (address above).

Regarding the programmatic aspects: Wendy Buckler, Office of Plant and Dairy Foods and Beverages (HFS–300), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–2923.

SUPPLEMENTAL INFORMATION: This project is authorized under section 301 of the Public Health Service Act (the PHS Act) (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance at 93.103. The application will not be subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Program (45 CFR part 100).

The Public Health Service (PHS) strongly encourages all award recipients to provide a smoke-free work place and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

I. Background

While the American food supply is among the safest in the world, every year there are still millions of Americans stricken by illness caused by the food they consume, and the very young and elderly die as a result. In 1997, the President announced his Food Safety Initiative (FSI), the goal of which is to reduce the annual incidence of foodborne illnesses by enhancing the safety of the nation's food supply. As directed, agencies are exploring ways to strengthen systems of coordination, surveillance, inspections, research, risk assessment, and education. Through a collaborative effort between the FDA, the U.S. Department of Agriculture (USDA), and the Environmental Protection Agency (EPA), a report titled ''Food Safety from Farm to Table: A National Food Safety Initiative'' was released in May 1997.

Over the last several years, the detection of outbreaks of foodborne illnesses associated with domestic and imported fresh fruits and vegetables has also increased. Imports have doubled over the past 7 years and they are expected to increase by 30 percent by 2002. Thus, FDA is directing surveillance, inspection, compliance, and education efforts to detect and prevent harmful pathogens from reaching the consumer in a food safety ''farm to table'' approach. These food safety efforts apply to both domestic and imported produce. To that end, FDA and USDA issued a guidance document that is intended to assist the U.S. and foreign produce industry in enhancing the safety of domestic and imported produce by addressing common areas of concern in the growing, harvesting, sorting, packing, and distribution of fresh produce.

WERC is a program of the College of Engineering at New Mexico State University established in 1990 under a cooperative agreement with the U.S. Department of Energy. Starting in 1991, WERC has conducted an Annual Environmental Design Contest (Contest), which is a unique educational experience for students from throughout the world. The Contest is open to any 2-year, 4-year, or graduate degree institution. Since 1998, there has been a separate concurrent competition for high school students. The Contest provides an opportunity for students to apply all the theories they have learned and to develop innovative solutions for real environmental issues. Most of the problems in the past dealt with waste disposal, ground water contamination, nuclear waste treatment, and similar subjects. The scope of problems has recently been broadened to include food safety and disciplines such as microbiology.

Major engineering and physical science departments at leading U.S. universities and some foreign countries regularly compete in the Contest. In the ninth annual Contest in 1998 to 1999, 56 universities and 8 high school teams presented and demonstrated technical solutions combined with economics, public policy, regulations and other considerations vital to the environment.

Government and industry sponsors provide tasks for the Contest. The tasks are technological problems for which known solutions are not readily available.

In 1999, FDA entered a task entitled ''Detection of Human Waste on Imported Fresh Fruits and Vegetables'' for the Contest. There are several areas in the production of fresh fruits and vegetables that can contribute to food safety concerns. One of the areas is the use of municipal biosolids or sewage sludge (the treated by-product of human waste treatment) as a soil amendment for the production of fresh fruits and vegetables. Improperly treated sewage sludge represents a significant source of human pathogens. Because the consumption of produce contaminated by human waste poses a potential health risk, FDA is seeking a mechanism by which it can: (1) Determine if sewage sludge has been adequately treated to eliminate pathogenic microorganisms and (2) determine if fresh fruits and vegetables are contaminated on the surface by improper sewage sludge. Three schools selected the FDA task.

II. Purpose

FDA will be one of the sponsors for the Contest administered by WERC and will submit task(s) to be considered by the schools. The school teams' imagination, fresh ideas, and innovative solutions can be of great importance to

improving the safety of the American food supply.

WERC reviews the tasks, adjusts them to stay within Contest parameters, and publicizes the Contest within the academic community. WERC will discuss and work with FDA on revising the agency's task. FDA will work closely with WERC throughout the Contest; the agency can also have a minimum of four judges participate in the competition.

WERC announces the Contest in the fall. The competitors are self-selected and, they may come from anywhere in the world. The student teams and their faculty advisors can accept the challenge of one or more of the tasks.

The teams conduct research for potential solutions, develop a concept for a process to complete the task, and present their findings (including a bench-scale demonstration of their solution) during the competition that is held in April. The goal of the competition is to design, develop, and test actual environmental processes for real-world problems.

The Contest is conducted in four parts: (1) A paper that presents a full-scale process analysis and design, (2) an oral presentation, (3) a bench-scale process demonstration (with samples taken of the product for analysis), and (4) a poster board presentation. All of the above Contest elements are part of a process used to communicate and to advance ideas and projects towards implementation in today's business environment.

The judges for the competition come from all walks of life and are respected as leaders within their professional communities. They are selected from industry, government, and academia.

The judges will critique each student team's performance, the performance of the contestants against the guidance provided, and the technical merits and applicability of the team's proposed solutions. A preliminary judges' meeting is held each February to review and revise the criteria for judging the different tasks and to finalize the judging process for the upcoming Contest. The recommendations resulting from the meeting are recorded for subsequent Contests. The broad base of judges have expertise in the physical and biological sciences, engineering, business, economics, health and safety regulations, environmental regulations, public policy, and communications.

To enhance the learning experience, WERC provides feedback on the teams' performance after each Contest. The faculty advisor for each task will be provided with the high score, the low score, the average score, and the score for the paper, oral, bench-scale process, and poster. Related comments from the judges may also be provided.

Each year, WERC tries to bring new sponsors to the program to maintain diversity and to address current environmental problems.

III. Delineation of Substantive Involvement

FDA will have substantial involvement in the activities of the Contest being funded by the cooperative agreement. Substantive involvement includes, but is not limited to, the following:

1. FDA will work closely with WERC throughout the annual Contest. This may include involvement in the selection of appropriate tasks for the next year's contests, in order to assure that selected tasks are diversified and address current environmental problems. Such involvement may include participation by FDA staff in conference calls and at meetings as well as through correspondence. FDA staff may also act as judges.

2. As one of several sponsors of the contest, FDA will submit task(s) for the Contest. The task must: (1) Represent an actual environmental, waste management decontamination, or microbiological problem for which there is no known solution, or for which existing solutions do not meet the desired performance criteria and (2) be adaptable to a bench-scale demonstration within the limitations of the Contest. All submitted tasks are reviewed by WERC staff and discussed with the tasks' sponsors before the final selection is made. Priorities of the FDA and possible current health issues/topics may impact on future task(s) that would be submitted to WERC.

3. As a sponsor of the contest, FDA will also provide qualified judges, one being the project officer for the submitted task(s), for the Contest. All judges are bound by the WERC contest ethic to make as objective a decision as possible on the awards. If a judge has a precontest bias for or against a particular university, he or she will excuse themselves from judgment of that university. Other judges will be selected from other sponsoring companies or agencies and from industry, government, and academia.

IV. Review Procedures

The application submitted by the WERC will undergo a noncompetitive, dual peer review. The application will be reviewed for scientific and technical merit by a panel of experts in the subject field of the specific application. If the application is recommended for approval it will then be presented to the National Advisory Environmental Health Sciences Council for concurrence with the recommendations made by the first level reviewers. The final funding decision will be made by the Commissioner of Food and Drugs or her designee.

V. Reporting Requirements

A Program Progress Report and a Financial Status Report (FSR) (SF–269) are required. An original FSR and two copies shall be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR (SF–269) on time may be grounds for suspension or termination of the agreement. Progress reports will be required quarterly within 30 days following each fiscal year quarter (January 31, April 30, July 30, October 31), except that the fourth report will serve as the annual report and will be due 90 days after the budget expiration date. CFSAN program staff will advise the recipient of the suggested format for the Program Progress Report at the appropriate time. A final FSR (SF–269), Program Progress Report and Invention Statement, must be submitted within 90 days after the expiration of the project period, as noted on the Notice of Grant Award.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least quarterly by the Project Officer and the Project Advisory Group. Project monitoring may also be in the form of telephone conversations between the Project Officer/Grants Management Specialist and the Principal Investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

VI. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a cooperative agreement. This agreement will be subject to all policies and requirements that govern the research grant program of the PHS, including provisions of 42 CFR part 52 and 45 CFR part 74.

B. Length of Support

The length of support will be for up to 5 years. Funding beyond the first year will be noncompetitive and will depend on: (1) Satisfactory performance during the preceding year, and/or (2) the availability of Federal fiscal year funds.

VII. Submission Requirements

The original and two copies of the completed Grant Application Form PHS 398 (Rev. 4/98) with copies of the appendices for each of the copies, should be submitted to Maura Stephanos (address above). Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by the PHS to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925–0001.

VIII. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information, shall not be used or disclosed except for evaluation purposes.

Dated: July 10, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–18290 Filed 7–19–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D–0325]

International Conference on Harmonisation; Draft Revised Guidance on Impurities in New Drug Substances

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft revised guidance entitled ''Q3A(R) Impurities in New Drug Substances.'' The draft revised guidance, which updates a guidance on the same topic published in the **Federal Register** of January 4, 1996 (the 1996 guidance), was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft revised guidance clarifies the 1996 guidance, adds information, and provides consistency with more recently published ICH guidances. The draft revised guidance is intended to provide guidance to applicants for drug marketing registration on the content and qualification of impurities in new drug substances produced by chemical syntheses and not previously registered in a country, region, or member State.

DATES: Submit written comments by September 18, 2000.

ADDRESSES: Submit written comments on the draft revised guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of the draft revised guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Single copies of the guidance may be obtained by mail from the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852, or by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Copies may be obtained from CBER's FAX Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Charles P. Hoiberg, Center for Drug Evaluation and Research (HFD–800), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5169.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In October 1999, the ICH Steering Committee agreed that a draft revised guidance entitled ''Q3A(R) Impurities in New Drug Substances'' should be made available for public comment. The draft revised guidance is a revision of a guidance on the same topic published in the **Federal Register** of January 4, 1996 (61 FR 372). The draft revised guidance is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group.

In accordance with FDA's good guidance practices (62 FR 8961, February 27, 1997), this document is now being called a guidance, rather than a guideline.

The draft revised guidance is intended to provide guidance to applicants for drug marketing registration on the content and qualification of impurities in new drug substances produced by chemical syntheses and not previously registered in a country, region, or member State. The draft revised guidance is not intended to apply to new drug substances used during the clinical research stage of development or clinical trials. The draft revised guidance also does not apply to biological/biotechnological substances, peptides, oligonucleotides,

radiopharmaceuticals, fermentation and semisynthetic products derived from that process, herbal products, and crude products of animal or plant origin. Impurities in new drug substances are addressed in the draft revised guidance from two different perspectives: (1) Chemistry aspects—classification and identification of impurities, report generation, setting specifications, and a brief discussion of analytical procedures; and (2) safety aspects—guidance for qualifying impurities that were not present in batches of the new drug substance used in safety and clinical studies and/or impurity levels substantially higher than in those batches.

The draft revised guidance includes revised text on threshold limits, revised text on specification limits for impurities, and new guidance on rounding. Additions to the glossary include definitions for the terms ''identification threshold,'' ''qualification threshold,'' ''reporting threshold,'' and ''rounding.'' References to validated limit of quantitation were removed. The section on solvents references a more recently published ICH guidance entitled ''Q3C Impurities: Residual Solvents.'' Minor editorial changes were made to improve the clarity and consistency of the document.

This draft revised guidance represents the agency's current thinking on impurities in new drug substances. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft revised guidance by September 18, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft revised guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/publications.htm.

The text of the draft revised guidance follows:

Q3A(R) Impurities in New Drug Substances [1]

1. Preamble

This document is intended to provide guidance for registration applications on the content and qualification of impurities in new drug substances produced by chemical syntheses and not previously registered in a region or member State. It is not intended to apply to the regulation of new drug substances used during the clinical research stage of development. Biological/biotechnological, peptide, oligonucleotide, radiopharmaceutical, fermentation and semisynthetic products derived therefrom, herbal products, and crude products of animal or plant origin are not covered.

Impurities in new drug substances are addressed from two perspectives:

Chemistry aspects include classification and identification of impurities, report generation, setting specifications, and a brief discussion of analytical procedures; and

Safety aspects include specific guidance for qualifying impurities that were not present in batches of new drug substance used in safety and clinical studies and/or impurity levels substantially higher than in those batches. Threshold limits are defined, at or below which qualification is not needed.

2. Classification of Impurities

Impurities may be classified into the following categories:

- Organic Impurities (Process- and Drug-Related)
- Inorganic Impurities
- Residual Solvents

Organic impurities may arise during the manufacturing process and/or storage of the new drug substance. They may be identified or unidentified, volatile or nonvolatile, and include:

- Starting Materials
- By-Products
- Intermediates
- Degradation Products
- Reagents, Ligands, and Catalysts

Inorganic impurities may derive from the manufacturing process. They are normally known and identified, and include:

- Reagents, Ligands, and Catalysts
- Heavy Metals or Other Residual Metals
- Inorganic Salts

Solvents are organic or inorganic liquids used during the manufacturing process. Since these are generally of known toxicity, the selection of appropriate controls is easily accomplished (see ICH Q3C Impurities: Residual Solvents).

Excluded from this document are: Extraneous contaminants (other materials such as filter aids, charcoal) that should not occur in new drug substances and are more appropriately addressed as good manufacturing practice (GMP) issues; polymorphic form, a solid state property of the new drug substance; and enantiomeric impurities.

[1] This draft revised guidance represents the agency's current thinking on impurities in new drug substances. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

3. Rationale for the Reporting and Control of Impurities

3.1 Organic Impurities

The applicant should summarize those actual and potential impurities most likely to arise during the synthesis, purification, and storage of the new drug substance. This summary should be based on sound scientific appraisal of the chemical reactions involved in the synthesis, impurities associated with raw materials that could contribute to the impurity profile of the new drug substance, and possible degradation products. This discussion may include only those impurities that may reasonably be expected based on knowledge of the chemical reactions and conditions involved.

In addition, the applicant should summarize the laboratory studies conducted to detect impurities in the new drug substance. This summary should include test results of batches manufactured during the development process and batches from the proposed commercial process, as well as results of intentional degradation studies used to identify potential impurities arising during storage. Assessment of the proposed commercial process may be deferred until the first batch is produced for marketing. The impurity profile of the drug substance lots intended for marketing should be compared with those used in development, and any differences discussed.

The studies conducted to characterize the structure of actual impurities present in the new drug substance at a level greater than (>) the threshold given in Attachment 1 (e.g., calculated using the response factor of the drug substance) should be described. Note that all specified impurities at a level greater than (>) the identification threshold in batches manufactured by the proposed commercial process should be identified. Degradation products observed in stability studies at recommended storage conditions should be similarly identified. When identification of an impurity is not feasible, a summary of the laboratory studies demonstrating the unsuccessful effort should be included in the application. Where attempts have been made to identify impurities present at levels of not more than (≤) the identification thresholds, it is useful to also report the results of these studies.

Identification of impurities present at an apparent level of not more than (≤) the identification threshold is generally not necessary. However, analytical procedures should be developed for those potential impurities that are expected to be unusually potent, producing toxic or pharmacologic effects at a level less than or equal to (≤) the identification threshold. All impurities should be qualified as described later in this guidance. Conventional rounding rules should be applied, and the results presented with the same number of decimals as given in the limit (see glossary).

3.2 Inorganic Impurities

Inorganic impurities are normally detected and quantitated using pharmacopoeial or other appropriate procedures. Carryover of catalysts to the new drug substance should be evaluated during development. The need for

inclusion or exclusion of inorganic impurities in the new drug substance specifications should be discussed. Limits should be based on pharmacopoeial standards or known safety data.

3.3 Solvents

The control of residues of the solvents used in the manufacturing process for the new drug substance should be discussed and presented according to the ICH Q3C guidance for residual solvents.

4. Analytical Procedures

The registration application should include documented evidence that the analytical procedures are validated and suitable for the detection and quantitation of impurities (see ICH Q2A and Q2B guidances for analytical validation). Differences in the analytical procedures used during development and those proposed for the commercial product should be discussed in the registration application.

Organic impurity levels can be measured by a variety of techniques, including those which compare an analytical response for an impurity to that of an appropriate reference standard or to the response of the new drug substance itself. Reference standards used in the analytical procedures for control of impurities should be evaluated and characterized according to their intended uses. It is considered acceptable to use the drug substance as a standard to estimate the levels of impurities. In cases where the response factors are not close, this practice may still be acceptable, provided a correction factor is applied or the impurities are, in fact, being overestimated. Specifications and analytical procedures used to estimate identified or unidentified impurities are often based on analytical assumptions (e.g., equivalent detector response). These assumptions should be discussed in the registration application.

5. Reporting Impurity Content of Batches

Analytical results should be provided for all batches of the new drug substance used for clinical, safety, and stability testing, as well as for batches representative of the proposed commercial process. The content of individual identified and unidentified and total impurities observed in these batches of the new drug substance should be reported with the analytical procedures indicated. A tabulation (e.g., spreadsheet) of the data is recommended. Impurities should be designated by code number or by an appropriate descriptor, e.g., retention time. Levels of impurities that are not more than (>) the reporting threshold given in Attachment 1 need not be reported. A higher reporting threshold should only be proposed with justification. All impurities at a level greater than (>) the reporting threshold should be summed and reported as Total Impurities. The summation should be performed on the unrounded individual values, and the total value should be rounded and reported as described in section 3.1. When analytical procedures change during development, reported results should be linked to the procedure used, with appropriate validation information provided. Representative chromatograms should be provided. Chromatograms of such representative batches from methods validation studies showing separation and detectability of impurities (e.g., on spiked samples), along with any other impurity tests routinely performed, can serve as the representative impurity profiles. The applicant should ensure that complete impurity profiles (i.e., chromatograms) of individual batches are available if requested.

A tabulation should be provided that links the specific new drug substance batch to each safety study and each clinical study in which it has been used.

For each batch of the new drug substance, the report should include:

- Batch Identity and Size
- Date of Manufacture
- Site of Manufacture
- Manufacturing Process
- Impurity Content, Individual and Total
- Use of Batches
- Reference to Analytical Procedure Used

6. Specifications for Impurities

The specifications for a new drug substance should include limits for impurities. Stability studies, chemical development studies, and routine batch analyses can be used to predict those impurities likely to occur in the commercial product. The selection of impurities to include in the new drug substance specifications should be based on the impurities found in batches manufactured by the proposed commercial process. Those impurities selected for inclusion in the specifications for the new drug substance are referred to as ''specified impurities'' in this guidance. Specified impurities may be identified or unidentified and should be individually listed in the new drug substance specifications.

A rationale for the inclusion or exclusion of impurities in the specifications should be presented. This rationale should include a discussion of the impurity profiles observed in the safety and clinical development batches, together with a consideration of the impurity profile of material manufactured by the proposed commercial process. Specific identified impurities should be included along with specified unidentified impurities estimated to be present at a level greater than (>) the qualification/identification threshold given in Attachment 1. For impurities known to be unusually potent or to produce toxic or unexpected pharmacological effects, the quantitation/detection limit of the analytical methods should be commensurate with the level at which the impurities must be controlled. For unidentified impurities, the procedure used and assumptions made in establishing the level of the impurity should be clearly stated. Specified unidentified impurities included in the specifications should be referred to by an appropriate qualitative analytical descriptive label (e.g., ''unidentified A,'' ''unidentified with relative retention of 0.9''). Finally, a general specification limit of not more than (≤) the qualification/identification threshold (Attachment 1) for any unspecified impurity should be included.

Limits should be set no higher than the level that can be justified by safety data and consistent with the level achievable by the manufacturing process and the analytical capability. Where there is no safety concern, impurity specifications should be based on data generated on batches of the new drug substance manufactured by the proposed commercial process, allowing sufficient latitude to deal with normal manufacturing and analytical variation, and the stability characteristics of the new drug substance. Although normal manufacturing variations are expected, significant variation in batch-to-batch impurity levels may indicate that the manufacturing process of the new drug substance is not adequately controlled and validated (see ICH Q6A guidance on specifications).

In summary, the new drug substance specifications should include, where applicable, limits for:

Organic Impurities

- Each Specified Identified Impurity
- Each Specified Unidentified Impurity at a level greater than (>) the qualification/identification threshold
- Any Unspecified Impurity with a limit of not more than (≤) the qualification/identification threshold
- Total Impurities

Residual Solvents

Inorganic Impurities

7. Qualification of Impurities

Qualification is the process of acquiring and evaluating data that establishes the biological safety of an individual impurity or a given impurity profile at the level(s) specified. The applicant should provide a rationale for selecting impurity limits based on safety considerations. The level of any impurity present in a new drug substance that has been adequately tested in safety and/or clinical studies is considered qualified. Impurities that are also significant metabolites present in animal and/or human studies do not need further qualification. A level of a qualified impurity higher than that present in a new drug substance can also be justified based on an analysis of the actual amount of impurity administered in previous relevant safety studies.

If data are not available to qualify the proposed specification level of an impurity, studies to obtain such data may be needed when the usual qualification threshold limits given in Attachment 1 are exceeded.

Higher or lower threshold limits for qualification of impurities may be appropriate for some individual drugs based on scientific rationale and level of concern, including drug class effects and clinical experience. For example, qualification may be especially important when there is evidence that such impurities in certain drugs or therapeutic classes have previously been associated with adverse reactions in patients. In these instances, a lower qualification threshold limit may be appropriate. Conversely, a higher qualification threshold limit may be appropriate for individual drugs when the level of concern for safety is less than usual based on similar considerations (e.g., patient population, drug class effects, clinical considerations). Technical factors (manufacturing capability and control

methodology) may be considered as part of the justification for selection of alternative threshold limits based on manufacturing experience with the proposed commercial process. Proposals for alternative threshold limits are considered on a case-by-case basis.

The ''Decision Tree for Safety Studies'' (Attachment 2) describes considerations for the qualification of impurities when thresholds are exceeded. In some cases, decreasing the level of impurity below the threshold may be simpler than providing safety data. Alternatively, adequate data may be available in the scientific literature to qualify an impurity. If neither is the case, additional safety testing should be considered. The studies desired to qualify an impurity will depend on a number of factors, including the patient population, daily dose, and route and duration of drug administration. Such studies are normally conducted on the new drug substance containing the impurities to be controlled, although studies using isolated impurities are acceptable.

8. New Impurities

During the course of a drug development program, the qualitative impurity profile of the new drug substance may change, or a new impurity may appear as a result of synthetic route changes, process optimization, scale-up, etc. New impurities may be identified or unidentified. Such changes call for qualification of the level of the impurity unless it is not more than (>) the threshold values as noted in Attachment 1. When a new impurity exceeds the threshold, the ''Decision Tree for Safety Studies'' should be consulted. Safety studies should compare the new drug substance containing a representative level of the new impurity with previously qualified material, although studies using the isolated impurity are also acceptable (these studies may not always have clinical relevance).

9. Glossary

Chemical development studies: Studies conducted to scale-up, optimize, and validate the manufacturing process for a new drug substance.

Enantiomers: Compounds with the same molecular formula as the drug substance, which differ in the spatial arrangement of atoms within the molecule and are nonsuperimposable mirror images.

Extraneous substance: An impurity arising from any source extraneous to the manufacturing process.

Herbal products: Medicinal products containing, exclusively, plant material and/or vegetable drug preparations as active ingredients. In some traditions, materials of inorganic or animal origin may also be present.

Identification threshold: A limit above which (>) an impurity needs identification.

Identified impurity: An impurity for which a structural characterization has been achieved.

Impurity: Any component of the new drug substance that is not the chemical entity defined as the new drug substance.

Impurity profile: A description of the identified and unidentified impurities present in a new drug substance.

Intermediate: A material produced during steps of the synthesis of a new drug substance that must undergo further molecular change before it becomes a new drug substance.

Ligand: An agent with a strong affinity to a metal ion.

New drug substance: The designated therapeutic moiety that has not been previously registered in a region or member State (also referred to as a new molecular entity or new chemical entity). It may be a complex, simple ester, or salt of a previously approved drug substance.

Polymorphism: The occurrence of different crystalline forms of the same drug substance.

Potential impurity: An impurity that, from theoretical considerations, may arise from or during manufacture. It may or may not actually appear in the new drug substance.

Qualification: The process of acquiring and evaluating data that establishes the biological safety of an individual impurity or a given impurity profile at the level(s) specified.

Qualification threshold: A limit above which (>) an impurity needs to be qualified.

Reagent: A substance, other than a starting material or solvent, that is used in the manufacture of a new drug substance.

Reporting threshold: A limit above which (>) an impurity needs to be reported.

Rounding: The process of reducing a result to the number of significant figures or number of decimal places as dictated by the appropriate limit. For example, a result greater than or equal to (≥) 0.05 and less than (<) 0.15 is rounded to 0.1.

Safety information: The body of information that establishes the biological safety of an individual impurity or a given impurity profile at the level(s) specified.

Solvent: An inorganic or an organic liquid used as a vehicle for the preparation of solutions or suspensions in the synthesis of a new drug substance.

Specified impurity: Identified or unidentified impurity that is selected for inclusion in the new drug substance specifications and is individually listed and limited in order to ensure the safety and quality of the new drug substance.

Starting material: A material used in the synthesis of a new drug substance that is incorporated as an element into the structure of an intermediate and/or of the new drug substance. Starting materials are normally commercially available and of defined chemical and physical properties and structure.

Toxic impurity: An impurity having significant undesirable biological activity.

Unidentified impurity: An impurity that is defined solely by qualitative analytical properties (e.g., chromatographic retention time).

Unspecified impurity: An impurity that is not included in the list of specified impurities.

ATTACHMENT 1

Maximum Daily Dose	Qualification Threshold and Identification Threshold	Reporting Threshold [1]
≤ 2 grams (g)/day	0.1 percent or 1 milligram per day intake (whichever is lower)	0.05 percent
> 2 g/day	0.05 percent	0.03 percent

[1] Higher reporting thresholds should be scientifically justified.

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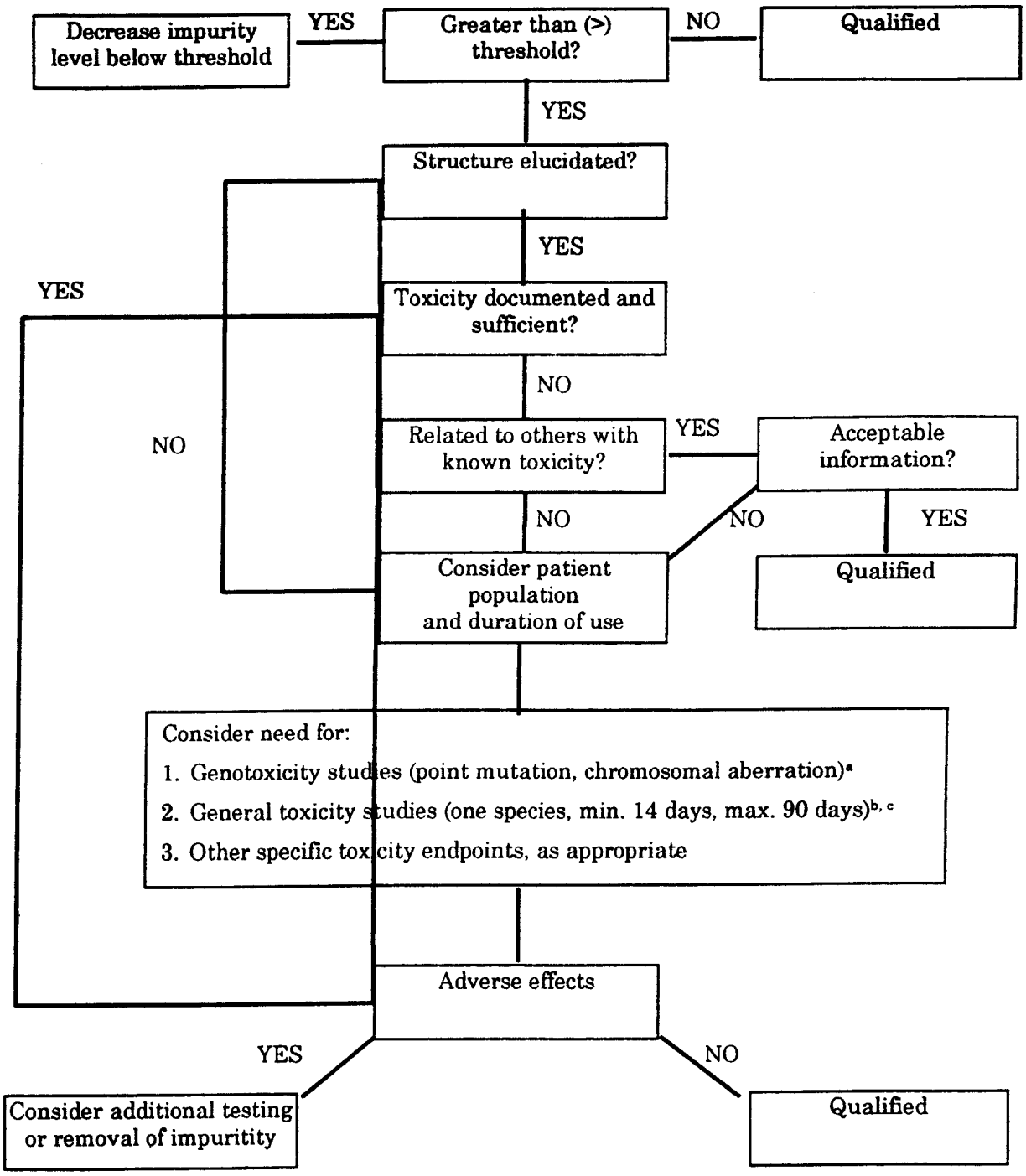
ATTACHMENT 2

DECISION TREE FOR SAFETY STUDIES



Notes on Attachment 2

[a] If considered desirable, a minimum screen for genotoxic potential should be conducted. A study to detect point mutations and one to detect chromosomal aberrations, both in vitro, are recommended as an acceptable minimum screen.

[b] If general toxicity studies are desirable, study(ies) should be designed to allow comparison of unqualified to qualified material. The study duration should be based on available relevant information and performed in the species most likely to maximize the potential to detect the toxicity of an impurity. In general, a minimum duration of 14 days and a maximum duration of 90 days are recommended.

[c] On a case-by-case basis, single-dose studies may be acceptable, especially for single-dose drugs. If repeat-dose studies are desirable, a maximum duration of 90 days would be acceptable.

Dated: July 10, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–18151 Filed 7–19–00; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–264 A–H]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Medicare DMEPOS Competitive Bidding Demonstration;

Form No.: HCFA–R–264 A–H (OMB #0938–0748);

Use: Section 1847 of the Social Security Act, as added by Section 4319 of the Balanced Budget Act (BBA), mandates HCFA to implement demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing of Part B items and services, except for physician's services. The demonstration currently operating in Polk County, Florida and the demonstration planned for San Antonio, Texas involve competitive bidding of categories of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). The new set of products to be offered for competitive bidding in San Antonio are: Oxygen equipment and supplies, hospital beds, non-customized orthotic devices, manual wheelchairs and accessories, and nebulizer inhalation drugs. Under the law, suppliers can receive payments from Medicare for items and services covered by the demonstration only if their bids are competitive in terms of quality and price. Each demonstration project may be conducted in up to three metropolitan areas for a three year period. Authority for the demonstration expires on December 31, 2002.

There are eight forms that are required for this demonstration. Form A will be used by the bidding supplier to provide information about the characteristics of the company. Form B will be used by the bidding supplier to provide specific information about the prices it bids for specific product categories, and to provide information about the attributes of the supplier in relation to the specific product category. Form C will be used by HCFA or its agents to obtain information on site regarding the bidding supplier. Form D will be used by HCFA or its agents to obtain financial references on the bidding supplier from banks and other financial sources. Form E will be used by HCFA or its agents to obtain information about the bidding suppliers from referral sources such as home health agencies and hospital discharge planners. Form F will be used to obtain information about the suppliers' financial status and to assure that they have sufficient fiscal resources to operate in a competitive environment where the prices being paid for some products are less than what have been customarily paid. It is required only from suppliers whose bids are in the competitive range. Form G will be used for nursing homes to identify their suppliers of products and services who have not been awarded Demonstration Supplier status for services to beneficiaries in their home. This is to permit payment to those suppliers for products and services furnished to nursing homes. Form H will be used to monitor the performance of Demonstration Suppliers to assure their adherence to the quality standards established for the project.

The competitive bidding demonstration for DMEPOS has the following objectives:

- Test the policies and implementation methods of competitive bidding to determine whether or not it should be expanded as a Medicare Program.
- Reduce the price that Medicare pays for medical equipment and supplies.
- Limit beneficiary out-of-pocket expenditures for copayments.
- Assure beneficiary access to high quality medical equipment and supplies.
- Prevent business transactions with suppliers who engage in fraudulent practices.

Frequency: On occasion;

Affected Public: Business or other for-profit, and not-for-profit institutions;

Number of Respondents: 5,100;

Total Annual Responses: 1,700;

Total Annual Hours: 12,420.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 11, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–18378 Filed 7–19–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–684A–I and HCFA–685]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, DHHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this

collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a currently approved collection;

Title of Information Collection: End-Stage Renal Disease (ESRD) Network Business Proposal Forms and Supporting Regulations in 42 CFR 405.2110 and 405.2112;

Form No.: HCFA–684A–I (OMB# 0938–0658);

Use: The submission of business proposal information by current ESRD networks and other bidders, according to the business proposal instructions, meets HCFA's need for meaningful, consistent, and verifiable data when evaluating contract proposals.;

Frequency: Other: Every 3 years;

Affected Public: Not-for-profit institutions;

Number of Respondents: 18;

Total Annual Responses: 36;

Total Annual Hours: 1,080.

(2) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: End-Stage Renal Disease (ESRD) Network Semi-Annual Cost Report Forms and Supporting Regulations in 42 CFR 405.2110 and 405.2112.;

Form No.: HCFA–685 (OMB# 0938–0657);

Use: Submission of semi-annual cost reports allow HCFA to review, compare, and project ESRD network costs. The reports are used as an early warning system to determine whether the networks are in danger of exceeding the total cost of the contract. Additionally, HCFA can analyze line item costs to identify any significant aberrations.

Frequency: Semi-annually;

Affected Public: Not-for-profit institutions;

Number of Respondents: 18;

Total Annual Responses: 36;

Total Annual Hours: 1,080.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Date: July 11, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–18379 Filed 7–19–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifiers: HCFA–R–296 (OMB # 0938–0781)]

Intent of Emergency Clearance: Public Information Collection Meeting To Discuss Requirements To Be Resubmitted to the Office of Management and Budget (OMB) Concerning the Home Health Agency Beneficiary Notices

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, in the near future, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), will be submitting to the Office of Management and Budget (OMB) a request for Emergency review of the revised Home Health Advance Beneficiary Notice (HHABN).

We will be requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. Due to the requirement to implement the home health agency (HHA) prospective payment system (PPS), on or about October 1, 2000, the Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result because eligible individuals will not receive their health insurance protections required under Federal law.

In order to fairly evaluate whether an information collection should be approved by OMB, consistent with section 3506(c)(2)(A) of the PRA, HCFA will hold a public meeting to permit interested parties an opportunity to give their views on how the content and distribution of the HHABNs may need to be revised in order to accomodate the changes associated with the implementation of the HHA prospective payment system. Representatives of the HHA industry, health care consumer advocacy groups, and provider groups, and other members of the public who wish to participate in the public meeting are asked to notify the Agency in advance of their interest in attending. At this meeting, the Health Care Financing Administration will solicit comments on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.
- Relevance of comments received on the HHABNs previously published in the **Federal Register**.

The public meeting will be held on Tuesday, July 25, 2000, from 1–5 p.m., in the Multipurpose Room (Capacity: 100 persons) of the Health Care Financing Administration, 7500 Security Boulevard, Baltimore, Maryland 21244. Interested parties should provide notification of their planned attendance to John Burke either via telephone (401) 786–1325, fax (410) 786–0262, or e-mail: *jburke1@hcfa.gov*. by no later than 3 p.m., Friday, July 21, 2000.

Dated: July 17, 2000.

Edward A. King,

Deputy Director, Office of Information Services, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 00–18441 Filed 7–19–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–482]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and

Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Methodology for Estimating Waiver Costs of HCFA Demonstration Projects;

Form No.: HCFA–482 (OMB# 0938–0408);

Use: The information collected is intended to provide guidance to individuals responsible for the preparation of waiver cost estimates for HCFA demonstrations. These estimates are used in analysis of potential costs and benefits associated with implementing a proposed policy;

Frequency: Other: On Occasion;

Affected Public: State, Local or Tribal Government, Individuals or Households, Business or other for-profit, and Not-for-profit institutions;

Number of Respondents: 25;

Total Annual Responses: 25;

Total Annual Hours: 2,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 12, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–18377 Filed 7–19–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Children's Hospital Graduate Medical Education Program (OMB No. 0915–0247)

Public Law 106–129 amended the Public Health Service Act to provide for the support of graduate medical education (GME) in children's hospitals. The provision authorizes payments in Fiscal Years 2000 and 2001 for direct and indirect expenses associated with operating approved GME programs. Section 340E(c)(1) of the PHS Act, as amended, states that the amount determined under this subsection for payments for direct medical expenses for a fiscal year is equal to the product of (a) the updated per resident amount as determined, and (b) the average number of FTE residents in the hospital's approved graduate medical residency training programs as determined under section 1886(h)(4) of the Social Security Act during the fiscal year. Section 340E(d)(2) requires the Secretary to determine the appropriate amount of indirect medical education for expenses associated with the treatment of more severely ill patients and the additional costs relating to teaching residents in such programs to a children's hospital by considering variations in case mix among children's hospitals, and the hospitals' number of FTE residents in approved training programs.

Administration of the Children's Hospital Graduate Medical Education Program relies on the reporting of the number of full-time equivalent residents in applicant children's hospital training programs to determine the amount of direct and indirect expense payments to participating children's hospitals. Indirect expense payments will also be derived from a formula that requires the reporting of case mix index information from participating children's hospitals.

Hospitals will be requested to submit such information in an annual application. The statute also requires reconciliation of the estimated numbers of residents with the actual number determined at the end of the fiscal year. Participating children's hospitals would be required to complete an adjusted report to correct such information on an annual basis.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Form name	Number of respondents	Responses per respondents	Total responses	Hrs. per response	Total hour burden	Wage rate ($/hr)	Total hour cost ($)
Form-2001E	54	1	54	24	1,296	$45	$58,320
Form-2001F	54	1	54	8	432	45	19,440
IME data	54	1	54	14	756	45	34,020
Required GPRA tables	54	1	54	28	1,512	45	68,040

ESTIMATES OF ANNUALIZED HOUR BURDEN—Continued

Form name	Number of respondents	Responses per respondents	Total responses	Hrs. per response	Total hour burden	Wage rate ($/hr)	Total hour cost ($)
Total	54		54		3,996		$179,820

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received on or before September 18, 2000.

Dated: July 13, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–18289 Filed 7–19–00; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: June 2000

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of June 2000, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS:	
ADAMS, JENINE M, KINGMAN, AZ	07/20/2000
AEROMEDICAL SERVICES, INTER, LAS VEGAS, NV	07/20/2000
AGAZARIAN, MARTIROS, LOS ANGELES, CA	07/20/2000
AVETISSIAN, ASHOT ART, RESEDA, CA	07/20/2000
BAKER, VANCE, LEWISBURG, PA	07/20/2000
BAKER, ROSIE, FT WORTH, TX	07/20/2000
BARSEGUYAN, ARTAK, LONG BEACH, CA	07/20/2000
BURTON, EDWINA L, MEMPHIS, TN	07/20/2000
CABRAL, NARCISO, DOMINICAN REPUBLIC	07/20/2000
CAMBRA, JOSEFA, MIAMI, FL	07/20/2000
CARBAJAL, LOURDES, EAGLE PASS, TX	07/20/2000
CHERKEZIAN, WILLIAM A, LONG BEACH, CA	12/20/1999
CHURCHILL, SHANE K, W DES MOINES, IA	07/20/2000
CHURCHILL, CURTIS J, DES MOINES, IA	07/20/2000
CORNEJO, MARTHA, NEW HYDE PARK, NY	07/20/2000
DAUB, KENNETH, ROCKFORD, IL	07/20/2000
DELEON, ANGELO M, BAYSIDE, NY	07/20/2000
DICKENSON, W DAVID, WICHITA FALLS, TX	07/20/2000
DUNCAN, ELENA S, OLYMPIA FIELDS, IL	07/20/2000
ENGLAND, GRANT D, COFFEYVILLE, KS	07/20/2000
ESCUDERO, PEDRO LUIS JR, PEMBROKE PINES, FL	07/20/2000
ESCUDERO, DAVID, MIAMI, FL	06/22/2000
ESCUDERO, PEDRO L SR, MIAMI, FL	07/20/2000
FELTON, VERNELL, ALBION, NY	07/20/2000
FLAGLER-KNIGHT, JENNIFER L, SARASOTA, FL	07/20/2000
FOCUS COUNSELING CENTER, INC, MEDIA, PA	07/20/2000
FRANK, VLADISLAVA, BEDFORD HILLS, NY	07/20/2000
FRAZIER, MARK R, OMAHA, NE	12/21/1999
FREITAG, GEORGIA R, WILMINGTON, IL	07/20/2000
GAYTAN, MARIA THERESA, EAGLE PASS, TX	07/20/2000
GOMEZ, MIRIAM G, MIAMI, FL	07/20/2000
GONZALEZ, JOSE D, PHILADELPHIA, PA	07/20/2000
GREEN, SAMUEL M, MORGANTOWN, WV	07/20/2000
GRIGORYANTS, ANZHELA, GLENDALE, CA	01/31/2000
HIGH, RONALD, RANDALLSTOWN, MD	07/20/2000
JENKINS, SHANNON LEE, SHERIDAN, AR	07/20/2000
JOHNSON, FLOYD E, CAIRO, IL	07/20/2000
KNIGHT, RICHARD DONALD II, SARASOTA, FL	07/20/2000
MOUN, KHEMARA, PROVIDENCE, RI	07/20/2000
NICHOLAS, BRIAN JOSEPH, COWEN, WV	07/20/2000
NIETO, MARTA LAZARA, MIAMI, FL	07/20/2000
OVASAPYAN, RAZMIK, GLENDALE, CA	07/20/2000
PEREZ, CLARA ARYAN, MIAMI, FL	07/20/2000
PEREZ, GENEVA HENRIETTA, PORTLAND, OR	07/20/2000
PERRY, SHABAZZ, BROOKLYN, NY	07/20/2000
PIERCE, GREGORY H, PHILADELPHIA, PA	07/20/2000
POH-EIKOM, VIKKI, PAULSBORO, NJ	07/20/2000
QUINONES, MAYRA M, MIAMI LAKES, FL	07/20/2000
RAWANA, VIVEKANAND, GANADO, AZ	07/20/2000
ROBERTS, ANNETTE, YULEE, FL	07/20/2000
ROBERTS, CLARENCE ROCHELLE, ENID, OK	07/20/2000
ROGERS, CHARLES PAUL, LEWISBURG, GA	07/20/2000
S & A RESPIRATORY CARE, INC, LOUISVILLE, KY	07/20/2000
SHEA, DAVID, LAS VEGAS, NV	07/20/2000
SPERRAZZA, CONNIE E, MESA, AZ	07/20/2000
STITH, TERRI, ROCHESTER, NY	07/20/2000
TALYANSKY, OLEG, BROOKLYN, NY	07/20/2000
TAYLOR, MARIE ANTOINETTE, QUEENS VILLAGE, NY	07/20/2000
VALLE, PEDRO, HIALEAH, FL	07/20/2000

Subject, city, state	Effective date
WEAR, LAURIE A, MEDFORD, OR	07/20/2000
WILLIFORD WILSON, ALBERTA JOYCE, BAY CITY, TX	07/20/2000
WORSHAM, CHRISTINA J, MOODY, MO	07/20/2000
FELONY CONVICTION FOR HEALTH CARE FRAUD:	
EVERGATES, SANDRA J, CLINTON, MA	07/20/2000
RYALS, CHANDRA L, TOWNSEND, GA	07/20/2000
SMITH FONTENOT, TONYA, JENKS, OK	07/20/2000
TAULMAN, CHRISTINE, LOVELAND, CO	07/20/2000
FELONY CONTROL SUBSTANCE CONVICTION:	
CLAAR, ELIZABETH A, WARREN, OH	07/20/2000
COLEMAN, THOMAS CLINTON JR, DUBLIN, GA	07/20/2000
FEENEY, MARY ANN, HAZLETON, PA	07/20/2000
HODGES, MELANIE CLARK, EVINGTON, VA	07/20/2000
KIRSTEIN, KENNETH F, MEDINA, OH	07/20/2000
OSER, CATHERINE ANN, LONG BEACH, CA	07/20/2000
PENNINGTON, FRANK R, JACKSON, TN	07/20/2000
REED, REGINA LEA, SILVERTON, TX	07/20/2000
YERGER, KAREN A, MIDDLEBURG, PA	07/20/2000
PATIENT ABUSE/NEGLECT CONVICTIONS:	
ALLEN, CHERMAINE JOAN, LAUREL, MS	07/20/2000
ALLGOOD, JENICE C, STARKVILLE, MS	07/20/2000
AYAP, EUSTALIA GUTIERREZ, SAN JOSE, CA	07/20/2000
BATOFF, STEVEN B, CAMP HILL, PA	07/20/2000
CONROY, KERRY ANNE, DENVER, CO	07/20/2000
DELEON, BARBARA M, AMSTERDAM, NY	07/20/2000
EWART, CAROL, BRONX, NY	07/20/2000
FACKLER, CRYSTAL L, GARETTSVILLE, OH	07/20/2000
FELDER, GLORIA, NEW YORK, NY	07/20/2000
GAMMILL, DEMETRA KAY, NEW ORLEANS, LA	07/20/2000
GRAEFF, WILLIS SHERWOOD III, WINFIELD, KS	07/20/2000
JACKSON, ROSALINDA LUZ, SAN RAMON, CA	07/20/2000
JONES, CHARLES EDFORD, BETHEL SPRINGS, TN	07/20/2000
KANE, BARBARA S, LOCKPORT, NY	07/20/2000
KIRK, KATHLEEN, SAYVILLE, NY	07/20/2000
LEVELS, KATHERINE N, DELHI, LA	07/20/2000
MALACHOWSKI, DEBBIE, HAMBURG, NY	07/20/2000
MAYS, JOHN LEE, SACRAMENTO, CA	07/20/2000
MOORE, SHANIKA, ROCHESTER, NY	07/20/2000
MORROW, THOMAS, GOWANDA, NY	07/20/2000
MULLINIKS, LAURIE JEAN, ADA, OK	07/20/2000
RIDDLE, SCOTT WESLEY, GREENWOOD, AR	07/20/2000
ROLDAN, ESTRELLITA MONTOYA, WALNUT CREEK, CA	07/20/2000
SMIGELSKI, SALLY A, EUCLID, OH	07/20/2000
STEVENSON, STONYA R, DAYTON, OH	07/20/2000
TIBO, EDNA KIKO, POMPANO BCH, FL	07/20/2000
WICKLINE, ANGELINE M, NEWARK, OH	07/20/2000
CONVICTION FOR HEALTH CARE FRAUD:	
CHHEDA, JAYANTILAL K, COPIAGUE, NY	07/20/2000
ROYAL, ANNETTE J, NEW ORLEANS, LA	07/20/2000
CONTROLLED SUBSTANCE CONVICTIONS:	
FOX, JOHN PAUL, HARPER WOODS, MI	07/20/2000
LICENSE REVOCATION/SUSPENSION/SURRENDERED:	
ACHEY, LORI B, ANNVILLE, PA	07/20/2000
ALSTON-MARSHALL, KELLY N, CHICAGO HGTS, IL	07/20/2000
AMABA, SAMANTHA D, MIAMI, FL	07/20/2000
AUSTIN, ROBIN DAWN, CASTAIC, CA	07/20/2000
AYCOCK, JOSEPH P, MEMPHIS, TN	07/20/2000
BECKWITH, JUDY LAVERNE, HAYWARD, CA	07/20/2000
BELT, LATOYA T, CHICAGO, IL	07/20/2000
BERKLEY, WANDA G, HALIFAX, VA	07/20/2000
BIONDI, GIOVANNI, SCARSDALE, NY	07/20/2000
BISANTI, EMILIO, SPRINGFIELD, MA	07/20/2000
BLASCZIENSKI, DEBRA, NEW ORLEANS, LA	07/20/2000
BLEVINS, BRENT L, COTTONTOWN, TN	07/20/2000
BOARD, ELIZABETH MAUDE, SMYRNA, GA	07/20/2000
BOBBITT, BRENDA E, BLACKSTONE, VA	07/20/2000
BOHANAN, TERRI W, SEYMOUR, TN	07/20/2000
BRADLEY, REGINALD DWAYNE, RICHMOND, VA	07/20/2000
BRASSFIELD, DENNIS WAYNE, DUMAS, TX	07/20/2000
BRATZ, KENNETH M, INGLESIDE, IL	07/20/2000
BRENNAN, KATHERINE, LEE, NH	07/20/2000
BROWN, FRANCINE B, CORBIN, KY	07/20/2000
BROWN, RICHARD C, ORO VALLEY, AZ	07/20/2000
BUCKLER, THOMAS B, LEBANON, TN	07/20/2000
CALLAHAN, PEGGY IMOJEAN, MODESTO, CA	07/20/2000
CALLOWAY, NINA A, CHICAGO, IL	07/20/2000
CAMPBELL, SHEILA D, ROANOKE, VA	07/20/2000
CANTERO, WILLIAM MENDOZA, LOS ANGELES, CA	07/20/2000
CARROLL, SANDRA B, ROGERSVILLE, TN	07/20/2000
CHAGNON, KENNETH P, MILTON, VT	07/20/2000
CHATMAN, SUSAN E, RINGGOLD, GA	07/20/2000
CHERNOFF, BETTYE F, WINCHESTER, TN	07/20/2000
CLARK, GIITA, MILTON, VT	07/20/2000
COLE, WILSON M, SAN DIEGO, CA	07/20/2000
COLLINS, PATRICK SHAWN, S BYRON, NY	07/20/2000
CONN, DENISE, VIRGINIA BEACH, VA	07/20/2000
COOK, JAY D, ANDERSON, CA	07/20/2000
COOPER, ROXANNE MARIE, VALRICO, FL	07/20/2000
CORTELYOU, MARIE, PECOS, NM	07/20/2000
COVINGTON, NANCY, CHICAGO, IL	07/20/2000
CREIGHTON, WILLIAM T, NORTHBOROUGH, MA	07/20/2000
CROSBY, JAMES ERNEST, PANAMA CITY BCH, FL	07/20/2000
DANIEL, JAMES LYNN, ORMOND BEACH, FL	07/20/2000
DAVID, LUC CLAUDE, PITTSFORD, NY	07/20/2000
DAVIS, CASSUANDRA PORTER, HEMET, CA	07/20/2000
DELAINI, JACQUELIN L, WICKHAVEN, PA	07/20/2000
DEWITT, MARIAN LOUISE, GALESBURG, IL	07/20/2000
DIBENEDITTO, JOSEPH P, BOWLING GREEN, KY	07/20/2000
DIXON, DONN HOWELL, AUSTIN, TX	07/20/2000
DONOGHUE, WILLIAM JOSEPH, CHICAGO, IL	07/20/2000
ELUL, RAFAEL, SAN FRANCISCO, CA	07/20/2000
ENGLE, DEBORAH J, BERWYN, IL	07/20/2000

Subject, city, state	Effective date
FANTONE, ROSALIND HELENE, ANN ARBOR, MI	07/20/2000
FELDMAN, RICHARD W, NASHVILLE, TN	07/20/2000
FINCHAM, IDA K, CULPEPER, VA	07/20/2000
FITCH, KIMBERLY L, CHICAGO, IL	07/20/2000
FLEMING, DEIRDRE LYNNE REESE, FLAGSTAFF, AZ	07/20/2000
FLETCHER, CHRISTINE, SHAW, MS	07/20/2000
FORESTER, MARGARET G, JOHNSON CITY, TN	07/20/2000
FREEBURGER, MICHAEL E, MAYFIELD, KY	07/20/2000
FUSSELL-THACKER, JACQUELINE MA, WOODLAND, CA	07/20/2000
GABBARD, SARAH D, HADDIX, KY	07/20/2000
GALVAN, KAREN MISCHELL, HARPER WOODS, MI	07/20/2000
GATES, DEBORAH, PITTSBURGH, PA	07/20/2000
GHIORGHIS, EDEN H, SPRINGFIELD, IL	07/20/2000
GIANTURCO, MICHAEL JAMES, EGGERTSVILLE, NY	07/20/2000
GIETL, JOSEPH P, BUFFALO, IL	07/20/2000
GILBERT, JACQUELYN L, CHELSEA, MI	07/20/2000
GILBERT, CYNTHIA M, SPRINGFIELD, VA	07/20/2000
GO, JAIME YU, BATH, NY	07/20/2000
GOLEM, JUDITH ELAINE, CANTON TWP, MI	07/20/2000
GONZALEZ, LORENA, CHICAGO, IL	07/20/2000
GRANGER, ELIZABETH DIANNE, HOOVER, AL	07/20/2000
GUNN, JAMES PATRICK, SANTA MARIA, CA	07/20/2000
HANDSFIELD, RODNEY G, LAS VEGAS, NV	07/20/2000
HARRIS, JANICE, HENDERSONVILLE, TN	07/20/2000
HARRISON, HUBERT, KNOXVILLE, TN	07/20/2000
HENRY, JERRY C, ACKERMAN, MS	07/20/2000
HILL, ROBERT S, TIPPECANOE, IN	07/20/2000
HILSE, KARL F JR, LAWRENCE, MA	07/20/2000
HOFFMAN, JAMES DAVID, ARLINGTON, VA	07/20/2000
HOWER, DENISE M, THOMPSONTOWN, PA	07/20/2000
HUGENTOBLER, SHELLI, EPHRAIM, UT	07/20/2000
JAMES, JEFFERY CRAIG, LATHROP, CA	07/20/2000
JOHNSON, DIANE L, PITTSBURGH, PA	07/20/2000
JOHNSON, CINDY KING, JACKSONVILLE, FL	07/20/2000
KAUFMAN, MARK CHARLES, VALLEY STREAM, NY	07/20/2000
KELLEY, EDWARD M, AUBURN, ME	07/20/2000
KLINGBEIL, ROBERT T, MARIETTA, GA	07/20/2000
KOCH, KATHRYN L, MEBANE, NC	07/20/2000
LAROSE, CHRISTINE L, WATERTOWN, MA	07/20/2000
LEAMON, YOLANDA G, BATTLE CREEK, MI	07/20/2000
LISKANICH, MICHAEL J, SAN DIMAS, CA	07/20/2000
LONG, BRENDA PENNINGTON, DAYTON, OH	07/20/2000
LONG, DAVID E, EL CENTRO, CA	07/20/2000
LONGAKER, WILLIAM D, BROOKTONDALE, NY	07/20/2000
LONGSWORTH, CYNTHIA MARIE, MIAMI, FL	07/20/2000
LOUIS, NATACHA, NYACK, NY	07/20/2000
LUCAS, DARRELL FREDERICK, CLEARLAKE, CA	07/20/2000
LUNAU, SUE LEMASTERS, MOUNDSVILLE, WV	07/20/2000
LUTSCH, PATRICIA F, LOUISVILLE, KY	07/20/2000
MAGGARD, CHRISTOPHER, HERMITAGE, TN	07/20/2000
MARBUTT, CHRISTOPHER JOE, LAFAYETTE, AL	07/20/2000
MARTINEZ, MARY J, LANSING, IL	07/20/2000
MCINTIRE, VICTOR K, CORINTH, MS	07/20/2000
MITCHELL, JERRY III, DADE CITY, FL	07/20/2000
MONEY, MARY, CAPON BRIDGE, WV	07/20/2000
MONICK, PHYLLIS H, BENNINGTON, VT	07/20/2000
MOORE, VALERIA F, DANVILLE, VA	07/20/2000
MORAN, JEFFREY, SAN CLEMENTE, CA	07/20/2000
MORTIMER, ANTHONY EDWARD, ANTIOCH, TN	07/20/2000
MOSS, JODI M, FORT WORTH, TX	07/20/2000
MUKAI, JANET ELIZABETH, LOS ANGELES, CA	07/20/2000
OLSON, DAN A, MESA, AZ	07/20/2000
OTT, JOHN DAVID, FOREST GOVE, OR	07/20/2000
PARRIS, DELLA M B, PARIS, TN	07/20/2000
PAUL, BRIAN KEITH, ROYAL OAK, MI	07/20/2000
PUSSER, CYNTHIA L, REAGAN, TN	07/20/2000
REESE, JACK D, LIBERAL, KS	07/20/2000
REICHEK, JODI, E SWANZEY, NH	07/20/2000
REID, SHAWN WAYNE, SAN GABRIEL, CA	07/20/2000
REIMERS, WILLIAM NEIL, SAUGUS, CA	07/20/2000
ROBINSON, MICHELLE N, RICHMOND, VA	07/20/2000
RODRIGUEZ, SANDRA, PROVIDENCE, RI	07/20/2000
ROELLCHEN, THOMAS JAY, KALAMAZOO, MI	07/20/2000
ROSS, NEIL WELBON, BERKELY, CA	07/20/2000
ROSS, DANIEL JOSEPH, CONCORD, CA	07/20/2000
RUDDER, ANN S, KNOXVILLE, TN	07/20/2000
RUEDA, ORLANDO JULIAN, HOLLYWOOD, FL	07/20/2000
SAAFIR, CONSTANCE D, DURHAM, NC	07/20/2000
SANTANGELO, ROBIN EILEEN POSEY, CORAL SPRINGS, FL	07/20/2000
SAXE, MARYANN, ROCHESTER, NY	07/20/2000
SCHAEFFER, NINA B, NEW YORK	07/20/2000
SHERWIN, DORIS W, WAVELAND, MS	07/20/2000
SHULTICE, ROBERT W, BLAIRSTOWN, IA	07/20/2000
SHUWARGER, COLEMAN, CHATSWORTH, CA	07/20/2000
SIVAMURTHY, SHETRA, HUNTINGTON STATION, NY	07/20/2000
SMITH, NOELENE F, ALBANY, NY	07/20/2000
SMITH, CHRISTOPHER TREMEL, SAN FRANCISCO, CA	07/20/2000
STALKER, RAYMOND L, LEXINGTON, KY	07/20/2000
STECKMEYER, PAUL J, HAMBURG, NY	07/20/2000
STOOTS, MARY H, BRISTOL, TN	07/20/2000
SUDTELGTE, JERRY, MEDFORD, OR	07/20/2000
TAYLOR, LEE ANN, LYNDONVILLE, VT	07/20/2000
TERRY, KEVIN MICHAEL, OAKDALE, CA	07/20/2000
TESCHKE, GERD C, MELROSE, MA	07/20/2000
TESTA, RICKI L, BOSTON, MA	07/20/2000
THOMPSON, BRIAN THOMAS, VANCOUVER, WA	07/20/2000
THORNTON, JEAN A, LEWISBURG, OH	07/20/2000
TURCHETTA, BERNARD V JR, N SCITUATE, RI	07/20/2000
TYNER, SANDRA J, GRANTS PASS, OR	07/20/2000
VARTULI, JEFFREY A, BRATTLEBORO, VT	07/20/2000

Subject, city, state	Effective date
WEST, LINDA CAROLINE, DORA, AL	07/20/2000
WHITLEY, CAROLYN L, HOPEWELL, VA	07/20/2000
WHITLOCK, CLAUDIA S, DANDRIDGE, TN	07/20/2000
WILDS, LAURA ANN, DALLAS, TX	07/20/2000
WILLIS, BETH ANNE M, BEEBE PLAIN, VT	07/20/2000
WILSON, DOYLE CLARENCE JR, HOUSTON, TX	07/20/2000
WILSON, MARLA A, MILLINGTON, TN	07/20/2000
WOJTKOWIAK, SANDRA LYNN, E LANSING, MI	07/20/2000
WOODFIELD, BRENT ELMAN, CHATHAM, MA	07/20/2000
WURTZ, RICHARD F, PHOENIX, AZ	07/20/2000
ZELANO, SALVATORE, NEW YORK, NY	07/20/2000
FEDERAL/STATE EXCLUSION/SUSPENSION:	
SILVER LAKE MEDICAL SUPPLY, LOS ANGELES, CA	07/20/2000
FRAUD/KICKBACKS:	
RESNICK, MARK GARY, TAMPA, FL	01/28/2000
OWNED/CONTROLLED BY CONVICTED EXCLUDED:	
A K CHIROPRACTIC CLINIC, HOLLAND, MI	07/20/2000
ALL CHIROPRACTIC CENTER, STAMFORD, CT	07/20/2000
CARR CHIROPRACTIC CENTER, MAYVILLE, WI	07/20/2000
CYNTHIA D GRAY, M D, P C, VANCOUVER, WA	07/20/2000
EAST COAST MEDICAL GROUP, INC, NEW SMYRNA BEACH, FL	07/20/2000
JAYMEE J FRIMML, D C, NAMPA, ID	07/20/2000
LANE P BUNKER, D C, P C, LONGMONT, CO	07/20/2000
MIGVA MEDICAL CENTER, GROUP, MIAMI, FL	07/20/2000
MQ PROFESSIONAL SERVICES, INC, MIAMI LAKES, FL	07/20/2000
MURPHY CHIROPRACTIC, INC, MADISON, WI	07/20/2000
OASIS EYE CARE, JAMAICA, NY	07/20/2000
OZARK CHIROPRACTIC CLINIC, P C, OZARK, MO	07/20/2000
P & M MEDICAL EQUIPMENT, MIAMI, FL	07/20/2000
RAPID OXIMETRY SERVICES, INC, MIAMI, FL	07/20/2000
SARTZ CHIROPRACTIC, CHANDLER, AZ	07/20/2000
VECTOR HEALTH CARE CONSULTANTS, NEW PORT RICHEY, FL	07/20/2000
VICKERS CHIROPRACTIC CENTER, HOLLAND, MI	07/20/2000
DEFAULT ON HEAL LOAN:	
AVERA, GEORGE EARLIN, DENTON, TX	07/20/2000
BENNETT, HUGH M, HONOLULU, HI	07/20/2000
BENSON, DAVID M, SAN FRANCISCO, CA	07/20/2000
BISHOP, LARRY C, EVANSVILLE, IN	07/20/2000
BUGG, JAMES H, OKLAHOMA CITY, OK	07/20/2000
CARTER, BENJAMIN M JR, GAINSEVILLE, GA	07/20/2000
DEAN, RANDY M, INVERNESS, FL	07/20/2000
DIMATTEO, LUCA, SIMSBURY, CT	07/20/2000
HOUGH, REGINIO T JR, LANCASTER, CA	07/20/2000
HUNT, EDWARD, JACKSON, MS	07/20/2000
JOHNSON, STEVEN R, CAMDEN, TN	07/20/2000
MACKUSE, DONNA MARIE, SOMERS POINT, NJ	07/20/2000
MADDEN, PATRICK J, QUINCY, MA	07/20/2000
MAYER, FREDERICK G, AVON BY THE SEA, NJ	07/20/2000
MITCHELL, WARREN A, ANCHORAGE, AK	07/20/2000
NORDNESS, PAUL J, CHARLOTTE, NC	07/20/2000
NUTTER, BARRY J, HONOLULU, HI	07/20/2000
OBATA, NWAEBUNI M, RIVERDALE, GA	07/20/2000
PAUNOVIC, SUSAN J, HOPEWELL JUNCTION, NY	07/20/2000
PREVEDELLO, BARBARA A, TOPEKA, KS	07/20/2000
RIVEROY, ISAAC, CHINO HILLS, CA	07/20/2000
SAINTLOUIS, JOSEPHUS H, BOSTON, MA	05/25/2000
SELLITTO, ROCCO V, BROOKLYN, NY	07/20/2000
SMITH, STACEY D, MALIBU, CA	07/20/2000
SPATAFORA, JOHN A JR, GRAN JUNCTION, CO	07/20/2000
STAUFFER, KELLY J, MOUNTAIN VIEW, CA	07/20/2000
STEFANIC, RICHARD, TORREON, COAH MEXICO,	07/20/2000
STRAUGHAN, CAROL J, MINNEAPOLIS, MN	07/20/2000
VESSEY, NED S, ARCADIA, CA	07/20/2000
WAKEFIELD, ELIZABETH A, MCGROGER, MN	05/25/2000
WALL, MICHAEL J, SANDY, UT	07/20/2000
ZITARELLI, JOSEPH A, HAZLETON, PA	07/20/2000
OWNERS OF EXCLUDED ENTITIES:	
DECKER, ANGELA, LOUISVILLE, KY	07/20/2000
JACKSON, SHARON, LOUISVILLE, KY	07/20/2000

Dated: July 11, 2000.

Kathi Petrowski,

Acting Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 00–18380 Filed 7–19–00; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a Telephone Conference Call meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in July 2000.

The meeting will include the review, discussion and evaluation of individual grant applications and detailed discussion of information about the Center's procurement plans. Therefore the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3)(4) and (6) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information, a summary of the meeting and a roster of Council members may be obtained from the contact listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Date: July 31, 2000 (Closed).

Time: 1 p.m. to 2:30 p.m.

Place: Rockwall II Building, 5515 Security Lane, Conference Room II, Rockville, Maryland 20852.

Contact: Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

Dated: July 10, 2000.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 00–18412 Filed 7–19–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4539–FA–02]

Announcement of Funding Awards for Fiscal Year 2000 Community Development Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for the Fiscal Year 2000 Community Development Work Study Program (CDWSP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to attract economically disadvantaged and minority students to careers in community and economic development, community planning and community management, and to provide a cadre of well-qualified professionals to plan, implement, and administer local community development programs.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1537, extension 5918. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the two ''800'' numbers, are not toll free.)

SUPPLEMENTARY INFORMATION: The CDWSP is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. The Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education and creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The CDWSP was enacted in the Housing and Community Development Act of 1988. (Earlier versions of the program were funded by the Community Development Block Grant Technical Assistance Program from 1982 through 1987 and the Comprehensive Planning Assistance Program from 1969 through 1981.) Eligible applicants include institutions of higher education having qualifying academic degrees, and States and areawide planning organizations who apply on behalf of such institutions. The CDWSP funds graduate programs only. Each participating institution of higher education is funded for a minimum of three students and a maximum of five students under the CDWSP. The CDWSP provides each participating student up to $9,000 per year for a work stipend (for internship-type work in community building) and $5,000 per year for tuition and additional support (for books and travel related to the academic program). Additionally, the CDWSP provides the participating institution of higher education with an administrative allowance of $1,000 per student per year.

The Catalog of Federal Domestic Assistance number for this program is 14.512.

On December 13, 1999 (64 FR 69622) HUD published a Notice of Funding Availability (NOFA) announcing the availability of $3 million in FY 1999 funds for the CDWSP. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

List of Awardees for Grant Assistance Under the FY 2000 Community Development Work Study Program Funding Competition, By Name, Address, Phone Number, Grant Amount and Number of Students Funded

New England

1. Massachusetts Institute of Technology, Professor Langley C. Keyes, Massachusetts Institute of Technology, Department of Urban Studies & Planning, 77 Massachusetts Avenue, Cambridge, MA 02139, (617) 253–1540. Grant: $90,000, to fund three students.

2. University of Rhode Island, Dr. Marcia Marker Feld, University of Rhode Island, 70 Lower College Road, Kingston, RI 02881, (401) 277–5235. Grant: $90,000 to fund three students.

New York/New Jersey

3. Hunter College of CUNY, Dr. William J. Milczarski, Hunter College of CUNY, Graduate Program in Urban Planning, 695 Park Avenue, New York, NY 10021, (212) 772–5601. Grant: $90,000 to fund three students.

4. State University of New York-Buffalo, Dr. Henry L. Taylor, Jr., Center for Urban Studies, 101C Fargo Quad, Building 1, Ellicott Complex, Buffalo, NY 14261, (716) 645–2374. Grant: $90,000 to fund three students.

Mid-Atlantic

5. Carnegie Mellon University, Dr. Barbara Brewton, Carnegie Mellon University, H. John Heinz III School of Public Policy and Management, 5000 Forbes Avenue, Pittsburgh, PA 15213, (412) 268–2162. Grant: $90,000 to fund three students.

6. Virginia Polytechnic and State University, Dr. Ted Koebel, Virginia Polytechnic and State University, 301 Burruss Hall, Blacksburg, VA 24061, (540) 231–3993. Grant: $90,000 to fund three students.

7. Washington Council of Governments, Kristin O'Connor, Washington Council of Governments, 777 North Capitol Street, NE, Washington DC 20002, (202) 962–3278. Grant: $360,000 to fund three students each at the University of Maryland, the University of the District of Columbia, Howard University, and George Mason University.

8. West Virginia University, Dr. Allen Martin, West Virginia University, 886 Chestnut Ridge Road, Box 6845, Morgantown, WV 26506, (304) 293–3998. Grant: $89,670 to fund three students.

Southeast

9. University of Alabama at Birmingham, Dr. Janice Hitchcock, University of Alabama at Birmingham, 701 South 20th Street, Suite 1170, Birmingham, AL 35294, (205) 934–3500. Grant: $90,000 to fund three students.

10. Alabama A&M University, Dr. Constance J. Wilson, Alabama A&M University, P.O. Box 411, Normal, AL 35762, (256) 851–5425. Grant: $90,000 to fund three students.

11. Clemson University, Dr. M. Grant Cunningham, Clemson University, Brackett Hall, Box 345702, Clemson, SC 29634, (864) 656–1587. Grant: $75,879 to fund three students.

12. Eastern Kentucky University, Dr. Terry Busson, Eastern Kentucky University, 521 Lancaster Avenue, Richmond, KY 40475, (606) 622–1019. Grant: $90,000 to fund three students.

13. Jackson State University, Dr. Curtina Moreland-Young, Jackson State University, 3825 Ridgewood Road, Box 18, Jackson, MS 39211, (601) 432–6266. Grant: $90,000 to fund three students.

14. University of Memphis, Dr. David Cox, University of Memphis, Center for Urban Research and Extension, Memphis, TN 38152, (901) 687–3365. Grant: $88,800 to fund three students.

15. University of North Carolina at Chapel Hill, Dr. Emil Malizia, University of North Carolina at Chapel Hill, CB#4100, Room 300—Bynum Hall, Chapel Hill, NC 27599, (909) 962–4759. Grant: $83,670 to fund three students.

16. State University of West Georgia, Dr. George Larkin, State University of West Georgia, 1600 Maple Street, Carrollton, GA 30118, (770) 836–6504. Grant: $82,464 to fund three students.

17. University of Tennessee at Chattanooga, Dr. Diane Miller, University of Tennessee at Chattanooga, Office of Graduate Studies, 615 McCallie Avenue, Chattanooga, TN 37403, (423) 755–4431. Grant: $90,000 to fund three students.

18. University of West Florida, Dr. C.E. Teasley, University of West Florida, 11000 University Parkway, Pensacola, FL 32514, (850) 474–2372. Grant: $90,000 to fund three students.

Midwest

19. University of Cincinnati, Dr. David Varady, University of Cincinnati, School of Planning, P.O. Box 21067, Cincinnati, OH 45221, (513) 556–0215. Grant: $79,446 to fund three students.

20. Cleveland State University, Dr. Dennis Keating, Cleveland State University, 1983 East 24th Street, Cleveland, OH 44115, (216) 687–2298. Grant: $90,000 to fund three students.

21. University of Michigan, Dr. Margaret Dewar, University of Michigan, Fleming Administration Building, 503 Thompson Street, Ann Arbor, MI 48109, (734) 763–2528. Grant: $90,000 to fund three students.

22. Ohio State University, Dr. Dale Bertsch, Ohio State University, 1960 Kenny Road, Columbus, OH 43210, (614) 292–2370. Grant: $90,000 to fund three students.

23. Southern Illinois University Edwardsville, Dr. T.R. Carr, Southern Illinois University Edwardsville, Campus Box 1046, Edwardsville, IL 62026, (618) 650–3762. Grant: $88,200 to fund three students.

Southwest

24. North Central Texas Council of Governments, Mr. R. Michael Eastland, P.O. Box 5888, Arlington, TX 76005, (817) 695–9101. Grant: $270,000 for three students each at University of North Texas, University of Texas at Arlington, and the University of Texas at Dallas.

Great Plains

25. University of Kansas, Dr. Stephen Maynard-Moody, University of Kansas, 318 Blake Hall, Lawrence, KS 66045, (785) 864–3527. Grant: $90,000 to fund three students.

26. University of Nebraska-Omaha, Dr. Burton Reed, University of Nebraska-Omaha, Department of Public Administration, 60th and Dodge Streets, Omaha, NE 68182, (402) 554–2682. Grant: $85,102 to fund three students.

Pacific

27. University of California Berkeley, Dr. Robert Ogilvie, University of California-Berkeley, Sponsored Projects Office, 316 Wurster Hall #1870, Berkeley, CA 94720, (510) 643–1903. Grant: $90,000 to fund three students.

28. University of California, Los Angeles, Dr. Jacqueline Leavitt, University of California, Los Angeles, 405 Hilgard, Los Angeles, CA 90024, (310) 825–4380. Grant: $89,849 to fund three students.

Northwest/Alaska

29. Eastern Washington University, Dr. Bill Kelley, Eastern Washington University, 526 5th Street, MS–10, Cheney, WA 99004, (509) 358–2226. Grant: $90,000 to fund three students.

30. University of Washington, Dr. Donald Allen, University of Washington, Box 353055, Seattle, WA 98195, (206) 543–4043. Grant: $90,000 to fund three students.

Dated: July 12, 2000.

Lawrence L. Thompson,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 00–18310 Filed 7–19–00; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Columbus Zoo and Aquarium, Powell, OH, PRT–028330

The applicant requests a permit to import biological samples from one captive-held and one captive-born female pygmy Chimpanzee (*Pan paniscus*) from Dr. Vet. W. De Meurichy, Royal Zoological Society of Antwerp, Antwerp, Belgium, for health status evaluation prior to subsequent import of the live specimens, for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: The Brookfield Zoo, Brookfield, IL, PRT–030185

The applicant requests a permit to re-export blood and DNA samples obtained from wild and captive Leadbeater's possum, (*Gymnobelideus leadbeateri*), to the Centre for Resources and Environmental Studies, Australian National University, Acton, Australia, for the purpose of enhancement of the species through scientific research.

Applicant: John R. Cassidy, Northville, MI, PRT–030198

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Frank Huschitt, Grayslake, IL, PRT–030199

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Mark A. David, Shirley, AR, PRT–030201

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Cincinnati Zoo & Botanical Garden, Cincinnati, OH, PRT–025093

The applicant requests a permit to purchase in interstate commerce wild and captive born Thick-billed parrots (*Rhynchopsitta pachyrhycha*) from Endangered Parrot Trust, Ocala, FL, for the purpose of enhancement of the survival of the species through propagation and zoological display.

Marine Mammal

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and

the regulations governing marine mammals (50 CFR 18).

Applicant: Ronald Schauer, Danville, CA, PRT–027545

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted polar bear trophy from the Grisefiord polar bear population, Northwest Territories, Canada for personal use.

Applicant: William A. Niederer, Anchorage, AK, PRT–030197

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted polar bear trophy from the Northern Beaufort sea polar bear population, Northwest Territories, Canada for personal use.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: July 13, 2000.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 00–18169 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Action Statement and Receipt of an Application for a Permit To Enhance the Survival of the Northern Idaho Ground Squirrel in Adams County, Idaho Under a Safe Harbor Agreement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Bob and Peggy Mack (Applicants) have applied to the Fish and Wildlife Service (Service) for an enhancement of a survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicants and the Service. The Agreement and permit application are available for public comment.

The Agreement allows for management and conservation of the threatened northern Idaho ground squirrel (*Spermophilus brunneus brunneus*) on approximately 14 acres of private land, owned by the Applicants, approximately 5.5 miles northwest of New Meadows, Idaho. Northern Idaho ground squirrels currently occupy less than 5 of the 14 acres. The proposed duration of the Agreement is 10 years, and the proposed term of the enhancement of a survival permit is 20 years.

Under the Agreement, a 5-acre area, which includes all the habitat currently occupied by northern Idaho ground squirrels on the Applicants' property, is identified as a protected area. This 5-acre protected area would have a baseline greater than zero (0), and no incidental take would be authorized under the permit within this area. The Agreement allows for a variety of conservation measures to be carried out by the Service within the 5-acre protected area to benefit the conservation of northern Idaho ground squirrels. The permit would authorize the Applicants to return the 9 acres outside of the 5-acre protected area to the existing baseline condition of zero (0) northern Idaho ground squirrels. We expect this Agreement to result in a net conservation benefit by enhancing northern Idaho ground squirrel habitat within the 5-acre protected area, and expanding the northern Idaho ground squirrel population to lands outside the protected area. Recovery of northern Idaho ground squirrels is expected to be enhanced under the Agreement by improving habitat, expanding the northern Idaho ground squirrel population at this site, and potentially providing a population with surplus individuals for transplanting to other sites in need of supplementation. Under the Agreement, the Applicants will receive funding under the Service's Endangered Species Act Private Landowner Incentive Program.

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969. We explain the basis for this determination in an Environmental Action Statement, which also is available for public review.

We request comments from the public on the permit application, and Agreement. All comments we receive, including names and addresses, will become part of the administrative record and may be released to the public.

DATES: Written comments should be received on or before August 21, 2000.

ADDRESSES: Comments should be addressed to Dennis Mackey, Project Biologist, Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (telephone: 208/378–5267; facsimile: 208/378–5262).

FOR FURTHER INFORMATION CONTACT: Dennis Mackey at the above address or telephone 208/378–5267.

SUPPLEMENTARY INFORMATION:

Document Availability

You may obtain copies of the documents for review by contacting the individual named above. You also may make an appointment to view the documents at the above address during normal business hours. The documents are also available electronically on the World Wide Web at *http://www.fws.gov/r1srbo/.*

Background

Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefitting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions if their efforts attract listed species to their property or increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c).

We have worked with the Applicants to develop the proposed Agreement for the conservation of northern Idaho ground squirrels on their 14 acres of land in Adams County, Idaho. Less than 5 of the 14 acres are currently occupied by northern Idaho ground squirrels. Under the proposed Agreement, the Applicants will: (1) Protect 5 acres of occupied, suitable northern Idaho ground squirrel habitat from land use activities that may result in ''take'' of ground squirrels; (2) allow Service personnel access to the property to conduct ground squirrel conservation activities such as habitat enhancement, artificial feeding, ground squirrel surveys, and translocation of excess ground squirrels should the current population expand beyond the 5-acre protected area; (3) if appropriate, in cooperation with the Service, develop signs to discourage shooting of ground squirrels; and (4) work cooperatively with the Service on other issues

necessary to further the purposes of the Agreement.

Threats to the northern Idaho ground squirrel include: habitat loss due to seral forest encroachment into suitable meadow habitats; competition from Columbian ground squirrels (*Spermophilus columbianus*); land use changes; recreational shooting; and naturally occurring events. The Agreement provides a net conservation benefit to northern Idaho ground squirrels by providing measures for ground squirrel habitat protection and enhancement, managing competition from Columbian ground squirrels, and controlling recreational shooting. The biological goal of ground squirrel conservation measures in the Agreement is to expand the northern Idaho ground squirrel population at this site beyond the 5-acre protected area by reducing threats to the species. The Agreement is expected to contribute to recovery of northern Idaho ground squirrels by reducing threats and expanding the ground squirrel population at this site. Recovery of the species would be enhanced by increasing the viability of the population at this site and potentially allowing ground squirrels to be translocated to other sites in need of population supplementation.

Consistent with the Service's Safe Harbor policy, under the Agreement, the Service would issue a permit to the Applicants authorizing incidental take of northern Idaho ground squirrels, as a result of activities on 9 acres of their property, outside the 5-acre protected area. These activities include construction and use of the Applicants' house, garage, and other associated outbuildings proposed for development on the property; installation of a well, underground power and telephone lines, a septic system/drainfield, and other required utilities; and operation of all terrain vehicles. We expect that the maximum level of incidental take authorized under the proposed Agreement will never be realized. The level of incidental take would be dependent on if, and how rapidly, northern Idaho ground squirrels expand beyond the 5-acre protected area.

We are providing this notice pursuant to section 10(c) of the Endangered Species Act and pursuant to implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations. If we determine that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to the Applicants for take of northern Idaho ground squirrels incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: July 3, 2000.

William F. Shake,

Acting Deputy Regional Director, Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 00–18182 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–3809]

Notice of Availability for the Record of Decision and Plan of Operations Approval for the South Pipeline Project; Expansion of Existing Gold Mining/Processing Operations; Lander County, NV

AGENCY: Bureau of Land Management, DOI.

COOPERATING AGENCIES: Nevada Division of Wildlife, US Army Corps of Engineers.

ACTION: Notice of Availability of the Record of Decision and Plan of Operations Approval for the South Pipeline Project, Lander County, Nevada.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and 40 Code of Federal Regulations 1500–1508 Council on Environmental Quality Regulations, the Bureaus of Land Management (BLM) has issued a Record of Decision for the South Pipeline Final Environmental Impact Statement (EIS) and Plan of Operations Approval for the Cortez Gold Mines' South Pipeline Project.

EFFECTIVE DATE: Appeals of the decision must be post-marked or otherwise delivered by 4:30 p.m. July 27, 2000.

ADDRESSES: Copies of the Record of Decision are available at the BLM, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820.

FOR FURTHER INFORMATION CONTACT: Gary Foulkes, Project Manager, Battle Mountain BLM at (775) 635–4060.

SUPPLEMENTARY INFORMATION: Cortez Gold Mines, Inc. (CGM) has been approved to extend gold mining operations at the Pipeline Mine within the Gold Acres Mining District in Lander County, approximately 30 miles southeast of Battle Mountain, Nevada. The South Pipeline Project (Project) (as approved) includes an expansion of the existing open pit and waste rock disposal sites, and the development of heap leach and ancillary facilities. The Project will require additional surface disturbance of 4,450 acres, all of which is public land administered by the Bureau of Land Management. Operations are expected to occur seven days a week, 24 hours a day, for an additional 10 years.

Gerald M. Smith,

Field Manager, Battle Mountain Field Office.

[FR Doc. 00–18341 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–00–1020–XU: GPO–0285]

Notice of Meeting of John Day/Snake Resource Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Meeting of John Day/Snake Resource Advisory Council: Walla Walla, Washington.

SUMMARY: On September 6, 2000 at 10 a.m. there will be a panel discussion to define and clarify the Endangered Species Act (ESA). The meeting will be held at the Cascade Natural Gas Corporation conference room, 324 W. Rose Street, Walla Walla, Washington. The meeting is open to the public. Public comments will be received at 10 a.m. on September 7, 2000. The following topics will be discussed by the council: Status and future of the RAC subgroups; RAC's position on the over stocked timber stands issue/ prescribed fire; Meeting quorum issues; OHV issues; A 15 minute round table for general issues.

FOR FURTHER INFORMATION CONTACT: Juan Palma, Bureau of Land Management, Vale District Office, 100 Oregon Street, Vale, Oregon 97918, Telephone (541) 473–3144.

Juan Palma,

District Manager.

[FR Doc. 00–18168 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 134974]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

July 10, 2000.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW1349744 for lands in Fremont County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstatement lease WYW134974 effective February 1, 2000, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Theresa M. Stevens,

Acting Chief, Leasable Minerals Section.

[FR Doc. 00–18381 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Posting of Invitation for Bids on Crude Oil From Federal Leases and State of Wyoming Properties in Wyoming

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of IFB on Federal and State of Wyoming crude oil in the State of Wyoming.

SUMMARY: The Minerals Management Service (MMS), in cooperation with the State of Wyoming, will post on MMS's Internet Home Page and make available in hard copy a public competitive offering of approximately 6,600 barrels per day (bpd) of crude oil, to be taken as royalty in kind (RIK) from a combination of Federal and State properties in Wyoming's Bighorn and Powder River Basins through an Invitation For Bids (IFB), Number 1435–02–00–RP–40329.

DATES: The IFB will be posted on MMS's Internet Home Page on or about July 25, 2000. Bids will be due for both, MMS and the State, at the posted receipt location on or about August 21, 2000. MMS and the State will notify successful bidders on or about August 25, 2000. The Federal Government and the State will begin actual taking of awarded royalty oil volumes for delivery to successful bidders for a 6-month period beginning October 1, 2000.

ADDRESSES: The IFB will be posted on RMP's Home page at http://www.rmp.mms.gov under the icon ''What's New.'' The IFB may also be obtained by contacting Mr. Todd Leneau at the address in the **FURTHER INFORMATION** section. Bids should be submitted to the address provided in the IFB.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the IFB document, terms, and process for Federal leases, contact Mr. Todd Leneau, Minerals Management Service, MS 2730, P.O. Box 25165, Denver, Co 80225–0165; telephone number (303) 275–7385; fax (303) 275–7303; e-mail Todd.Leneau@mms.gov. For additional information concerning the IFB document, terms, and process for State of Wyoming properties, contact Mr. Harold Kemp, Office of State Lands and Investments, Herschler Building, 3rd Floor West, 122 West 25th Street, Cheyenne, WY 82002–0600; telephone number (307) 777–6643; fax (307) 777–5400; e-mail: hkemp@missc.state.wy.us.

SUPPLEMENTARY INFORMATION: The offering in this IFB continues the ongoing RIK program in Wyoming. The State and MMS believe that taking oil royalties as a share of production, or RIK, from the properties offered in the IFB is a viable alternative to the agencies' usual practice of collecting oil royalties as a share of the value received by the lessee for sale of the production. Both agencies will continue to monitor the effectiveness of the RIK approach to taking crude oil royalties in Wyoming.

This sale involves approximately 6,600 bpd of crude oil from 380 Federal and State properties located in Wyoming's Bighorn and Powder River Basins. The volume represents an increase of about 1,700 bpd compared to the most recent IFB, No. 31053, which offered 4,900 bpd of crude oil for delivery to purchasers for production months April 2000 through September 2000. Most production is pipeline-connected. In the few instances where there is also some trucked production on a property, Exhibit A to the IFB will detail those properties.

Purchasers may bid on specific pipeline subgroups and/or on the entire packages of Wyoming sweet crude oil, Wyoming general sour crude oil, or Wyoming asphaltic sour crude oil. Bids will be due as specified in the IFB on or about August 21, 2000, and successful bidders will be notified on or about August 25, 2000.

MMS is allowing bidders to self-certify their financial solvency for the purpose of pre-qualifying to bid without the need for a letter of credit. Details will be available in the IFB.

The following are some of the additional details regarding the offerings that will be posted in the IFB on or about July 25, 2000:

- List of specific properties;
- For each property—tract allocations, royalty rate(s), average daily royalty volume, quality, current transporter, and operator;
- Bid basis;
- Reporting requirements;
- Terms and conditions; and
- Contract format.

The internet posting and availability of the IFB in hard copy are being announced in oil and gas trade journals as well as in this **Federal Register** notice.

Dated: July 14, 2000.

Lucy Querques Denett,

Associate Director for Royalty, Management Program.

[FR Doc. 00–18342 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico, Oil and Gas Lease Sale 177

AGENCY: Minerals Management Service, Interior.

ACTION: Final notice of Sale 177.

On August 23, 2000, the Minerals Management Service (MMS) will open and publicly announce bids received for blocks offered in Sale 177, Western Gulf of Mexico, pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR part 256). Bidders can obtain a ''Final Notice of Sale 177 Package'' containing this Notice of Sale and several supporting and essential documents referenced herein, from the MMS Gulf of Mexico Region's Public Information Unit, 1201 Elmwood Park Boulevard,

New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF, or via the MMS Gulf of Mexico Region's Internet site at http://www.gomr.mms.gov. The MMS also maintains a 24-hour Fax-on-Demand Service at (202) 219–1703. The ''Final Notice of Sale 177 Package'' contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the package.

Location and Time: Public bid reading will begin at 9 a.m., Wednesday, August 23, 2000, in the Grand Ballroom of the Royal Sonesta Hotel, 300 Bourbon Street, New Orleans, Louisiana. All times referred to in this document are local New Orleans time.

Filing of Bids: Bidders must submit sealed bids to the Regional Director (RD), MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, between 8 a.m. and 4 p.m., prior to the Bid Submission Deadline at 10 a.m., Tuesday, August 22, 2000. If the bids are mailed, mark on the envelope containing all the sealed bids the following:

Attention: Mr. John Rodi—Contains Sealed Bids for Sale 177

If the RD receives bids later than the time and date specified above, he will return the bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m., Tuesday, August 22, 2000. In the event of widespread flooding or other natural disaster, the MMS Gulf of Mexico Regional Office may extend the bid submission deadline. Bidders may call (504) 736–0557 for information about the possible extension of the bid submission deadline due to such an event.

Areas Offered for Leasing: The MMS is offering for leasing all the blocks and partial blocks listed in the document ''List of Blocks Available for Leasing, Sale 177'' included in the Sale Notice Package. All of these blocks are shown on the following Leasing Maps and Official Protraction Diagrams (which may be purchased from the MMS Gulf of Mexico Regional Office Public Information Unit).

Outer Continental Shelf Leasing Maps—Texas, Nos. 1 through 8. These 16 maps sell for $2.00 each:

TX1 South Padre Island Area (revised 09/01/99)
TX1A South Padre Island Area, East Addition (revised 09/09/98)
TX2 North Padre Island Area (revised 09/01/99)
TX2A North Padre Island Area, East Addition (revised 09/01/99)
TX3 Mustang Island Area (revised 09/01/99)
TX3A Mustang Island Area, East Addition (revised 09/01/99)
TX4 Matagorda Island Area (revised 09/01/99)
TX5 Brazos Area (revised 09/01/99)
TX5B Brazos Area, South Addition (revised 09/01/99)
TX6 Galveston Area (revised 09/01/99)
TX6A Galveston Area, South Addition (revised 09/01/99)
TX7 High Island Area (revised 09/01/99)
TX7A High Island Area, East Addition (revised 05/30/97)
TX7B High Island Area, South Addition (revised 03/15/99)
TX7C High Island Area, East Addition, South Extension (revised 03/15/99)
TX8 Sabine Pass Area (revised 05/30/97)

Outer Continental Shelf Official Protraction Diagrams. These diagrams sell for $2.00 each:

NG14–03 Corpus Christi (revised 09/01/99)
NG14–06 Port Isabel (revised 09/09/98)
NG15–01 East Breaks (revised 09/01/99)
NG15–02 Garden Banks (revised 03/15/99)
NG15–04 Alaminos Canyon (revised 09/09/99)
NG15–05 Keathley Canyon (revised 04/27/89)
NG15–08 (Unnamed) (revised 04/27/89)

Note: A CD–ROM (in ARC/INFO format) containing all of the Gulf of Mexico Leasing Maps and Official Protraction Diagrams, except for those not yet revised to digital format, is available from the MMS Gulf of Mexico Regional Office Public Information Unit for a price of $15.00. Only NG15–05 and NG15–08 in the Western Gulf are not available on the CD–ROM. The Leasing Maps and Official Protraction Diagrams are also available on our Internet site. See also 65 FR 2191, published on January 13, 2000, for the current status of all Gulf of Mexico Leasing Maps and Official Protraction Diagrams.

Acreage of all blocks is shown on these Leasing Maps and Official Protraction Diagrams. The available Federal acreage of all whole and partial blocks in this sale is shown in the document ''List of Blocks Available for Leasing, Sale 177'' included in the Sale Notice Package. Some of these blocks may be partially leased, or transected by administrative lines such as the Federal/State jurisdictional line, or partially included in the Flower Garden Banks National Marine Sanctuary (in accordance with the President's June 1998 withdrawal directive, portions of blocks lying within National Marine Sanctuaries are no longer available for leasing). Information on the unleased portions of such blocks, including the exact acreage, is found in the document titled ''Western Gulf of Mexico Lease Sale 177—Unleased Split Blocks and Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease,'' included in the Sale Notice Package.

Areas Not Available for Leasing: The following blocks in the Western Gulf of Mexico Planning Area are not available for leasing:

Blocks currently under lease; and

The following unleased block: High Island Area Block 170 (which is currently under appeal); and

High Island Area, East Addition, South Extension, Blocks A–375 and A–398 (at the Flower Garden Banks), and the portions of other blocks within the boundary of the Flower Garden Banks National Marine Sanctuary; portions of High Island Area, East Addition, South Extension, Block A–401; High Island Area, South Addition, Blocks A–502 and A–513; and Garden Banks Area Block 135; and

Mustang Island Area Blocks 793, 799, and 816 (blocks located off Corpus Christi which have been identified by the Navy as needed for testing equipment and training mine warfare personnel); and

The following blocks which are beyond the United States Exclusive Economic Zone and have been temporarily deferred from leasing by the Department of the Interior. These blocks are contained in an area subject to a treaty only recently negotiated and signed by the United States and Mexico (but not yet ratified). These blocks were deferred from this sale in the proposed Notice of Sale for Sale 177:

Keathley Canyon (Area NG 15–05)

Blocks

722 through 724
764 through 770
807 through 816
849 through 861
892 through 907
934 through 953
978 through 999

Area NG 15–08

Blocks

11 through 34
56 through 81
102 through 128
148 through 173
194 through 217
239 through 261

284 through 305
336 through 349

Leasing Terms and Conditions: Primary lease terms, minimum bids, annual rental rates, royalty rates, and royalty suspension areas are shown on the map ''Lease Terms and Economic Conditions, Sale 177, Final'' for leases resulting from this sale:

Primary lease terms: 5 years for blocks in water depths of less than 400 meters; 8 years for blocks in water depths of 400 to 799 meters; and 10 years for blocks in water depths of 800 meters or deeper;

Minimum bids: $25 per acre or fraction thereof for blocks in water depths of less than 800 meters and $37.50 per acre or fraction thereof for blocks in water depths of 800 meters or deeper;

Annual rental rates: $5 per acre or fraction thereof for blocks in water depths of less than 200 meters and $7.50 per acre or fraction thereof for blocks in water depths of 200 meters or deeper, until a discovery in paying quantities of oil or gas is made;

Royalty rates: 16⅔ percent royalty rate for blocks in water depths of less than 400 meters and a 12½ percent royalty rate for blocks in water depths of 400 meters or deeper, except during periods of royalty suspension;

Minimum royalty: After a discovery in paying quantities of oil or gas is made: $5 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $7.50 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper;

Royalty Suspension Areas: Royalty suspension *may* apply for blocks in water depths of 200 meters or deeper; see the map for specific areas. See 30 CFR 260 for the final rule specifying royalty suspension terms. Threshold prices will be applied to royalty suspension determinations; see paragraph (l) of the document ''Information To Lessees, Western Gulf of Mexico Sale 177'' included in the Sale Notice Package. The minimum royalty requirement is not applicable during periods of royalty suspension.

The map titled ''Stipulations and Deferred Blocks, Sale 177, Final'' depicts the blocks where the Topographic Features, Military Areas, and Naval Mine Warfare Area stipulations apply. The texts of the lease stipulations are contained in the document ''Lease Stipulations for Oil and Gas Lease Sale 177, Final'' included in the Sale Notice Package. Also shown on this map are the deferred blocks noted above.

Rounding: The following procedure must be used to calculate minimum bid, rental, and minimum royalty on blocks with fractional acreage: Round up to the next whole acre and multiply by the applicable dollar amount to determine the correct minimum bid, rental, or minimum royalty.

Note: For the minimum bid only, if the calculation results in a decimal figure, round up to the next whole dollar amount (see next paragraph). The minimum bid calculation, including all rounding, is shown in the document ''List of Blocks Available for Leasing, Sale 177'' included in the Sale Notice Package.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled ''Sealed Bid for Oil and Gas Lease Sale 177, not to be opened until 9 a.m., Wednesday, August 23, 2000.'' The total amount bid must be in a whole dollar amount; any cent amount above the whole dollar will be ignored by the MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Sale Notice Package.

The MMS published a list of restricted joint bidders, which applies to this sale, in the **Federal Register** at 65 FR 16957, on March 30, 2000. Bidders must execute all documents in conformance with signatory authorizations on file in the MMS Gulf of Mexico Regional Office. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, e.g., 33.33333 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that the MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including paying the ⅕ bonus on all high bids. A statement to this effect must be included on each bid (see the document ''Bid Form and Envelope'' contained in the Sale Notice Package).

Bid Deposit: Submitters of high bids must deposit the ⅕ bonus by using electronic funds transfer (EFT) procedures, following the detailed instructions contained in the document ''Instructions for Making EFT Bonus Payments'' included in the Sale Notice Package. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account specified in the EFT instructions) during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

Note: Certain bid submitters (*i.e.*, those that do not currently own or operate an OCS mineral lease OR those that have ever defaulted on a ⅕ bonus payment (EFT or otherwise)) are required to guarantee (secure) their ⅕ bonus payment. For those who must secure the EFT ⅕ bonus payment, one of the following options may be used: 1. Provide a third-party guaranty; 2. Amend Development Bond Coverage; 3. Provide a Letter of Credit; or 4. Provide a lump-sum check. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including the documents contained in the associated Sale Notice Package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance. To ensure that the Government receives a fair return for the conveyance of lease rights for this sale, high bids will be evaluated in accordance with MMS bid adequacy procedures. A copy of the current procedures, ''Modifications to the Bid Adequacy Procedures'' (64 FR 37560 of July 12, 1999), is available from the MMS Gulf of Mexico Regional Office Public Information Unit.

Successful Bidders: As required by MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay the balance of the cash bonus bid along with the first year's annual rental for each lease issued by EFT in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR 256, Subpart I, as amended. Each bidder in a successful high bid must have on file, in the MMS Gulf of Mexico Regional Office Adjudication Unit, a currently valid certification (Debarment Certification Form) certifying that the

bidder is not excluded from participation in primary covered transactions under Federal nonprocurement programs and activities. A certification previously provided to that office remains currently valid until new or revised information applicable to that certification becomes available. In the event of new or revised applicable information, the MMS will require a subsequent certification before lease issuance can occur. Persons submitting such certifications should review the requirements of 43 CFR, Part 12, Subpart D. A copy of the Debarment Certification Form is contained in the Sale Notice Package.

Affirmative Action: The MMS requests that the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS–2033 (June 1985), and the Affirmative Action Representation Form, Form MMS–2032 (June 1985) be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to bidding. In any event, these forms are required to be on file in the MMS Gulf of Mexico Regional Office Adjudication Unit prior to execution of any lease contract. Bidders must also comply with the requirements of 41 CFR 60.

Information to Lessees: The Sale Notice Package contains a document titled ''Information to Lessees.'' These Information to Lessees items provide information on various matters of interest to potential bidders.

Thomas R. Kitsos,

Acting Director, Minerals Management Service.

Approved: July 14, 2000.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 00–18365 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Badlands National Park; Environmental Statements; Notice of Intent

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to prepare a general management plan and environmental impact statement for Badlands National Park, South Dakota.

SUMMARY: The National Park Service (NPS) will prepare a general management plan (GMP) and an associated environmental impact statement (EIS) for Badlands National Park, South Dakota, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This notice is being furnished as required by NEPA Regulations 40 CFR 1501.7.

To facilitate sound planning and environmental assessment, the NPS intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are invited.

Participation in the planning process will be encouraged and facilitated by various means, including newsletters and open houses or meetings. The NPS will conduct public scoping meetings to explain the planning process and to solicit opinion about issues to address in the GMP/EIS. Notification of all such meetings will be announced in the local press and in NPS newsletters.

ADDRESSES: Written comments and information concerning the scope of the EIS and other matters should be directed to: Ms. Jan Harris, National Park Service, Denver Service Center, P.O. Box 25287, Denver, Colorado 80225. E-mail: jan_harris@nps.gov

Requests to be added to the project mailing list should be sent to Ms. Constance Lemos, Badlands National Park, P.O. Box 6, Interior, SD 57750. Telephone: 605–433–5361, ext. 281. E-mail: constance__lemos@nps.gov

FOR FURTHER INFORMATION CONTACT: Constance Lemos, Badlands National Park, at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: Badlands National Park consists of nearly 244,000 acres of sharply eroded buttes, pinnacles and spires blended with the largest, protected mixed grass prairie in the United States. The Badlands Wilderness Area is made up of 64,000 acres and is the site of the reintroduction of the black-footed ferret, the most endangered land mammal in North America. The Stronghold Unit is co-managed with the Oglala Sioux Tribe and includes sites of 1890s Ghost Dances. Established as Badlands National Monument in 1939, the area was redesignated ''National Park'' in 1978. Badlands National Park contains the world's richest Oligocene epoch fossil beds, dating 23 to 35 million years old. The evolution of mammal species such as the horse, sheep, rhinoceros and pig can be studied in the Badlands formations.

In accordance with NPS Park Planning policy, the GMP will ensure the Park has a clearly defined direction for resource preservation and visitor use. It will be developed in consultation with Servicewide program managers, interested parties, and the general public. It will be based on an adequate analysis of existing and potential resource conditions and visitor experiences, environmental impacts, and costs of alternative courses of action.

The environmental review of the GMP/EIS for Historic Site will be conducted in accordance with requirements of the NEPA (42 U.S.C. 4371 *et seq.*), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and National Park Service procedures and policies for compliance with those regulations.

Dated: July 10, 2000.

William W. Schenk,

Regional Director.

[FR Doc. 00–18338 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES–00–29]

CALFED Bay-Delta Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Final Programmatic Environmental Impact Statement/Environmental Impact Report (Final Programmatic EIS/EIR).

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended, and the California Environmental Quality Act, the Bureau of Reclamation, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, Natural Resources Conservation Service, Army Corps of Engineers, and the California Resources Agency, as joint lead agencies, have prepared a Final Programmatic EIS/EIR for the CALFED Bay-Delta Program. The CALFED Bay-Delta Program is a cooperative effort of 18 State and Federal agencies with regulatory and management responsibilities in the San Francisco Bay-Sacramento/San Joaquin River Bay-Delta to develop a long-term plan to restore ecosystem health and improve water management for beneficial uses of the Bay-Delta system. This Final Programmatic EIS/EIR is a result of this collaborative planning

process and identifies comprehensive solutions to the problems of ecosystem quality, water supply reliability, water quality, and Delta levee and channel integrity. The Final Programmatic EIS/EIR identifies four alternatives including a preferred alternative, to implement these solutions and programmatically analyzes the environmental impacts of each of those alternatives.

DATES: The lead agencies will not make a decision on the proposed action until 30 days after release of the Final Programmatic EIS/EIR. After the 30-day waiting period, the lead agencies will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: To request printed or electronic copies of the Final Programmatic EIS/EIR or for additional information, contact Mr. Rick Breitenbach, CALFED Bay-Delta Program, 1416 Ninth Street, Suite 1155, Sacramento, California 95814, telephone: (800) 900–3587. See the **SUPPLEMENTARY INFORMATION** section for a listing of the available documents and formats in which they may be obtained. Copies of the Final Programmatic EIS/EIR are also available for public inspection and review. These locations are listed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Breitenbach, CALFED Bay-Delta Program, telephone: (800) 900–3587.

SUPPLEMENTARY INFORMATION:

Available Formats

1. *CALFED Bay-Delta Program Website:* http://calfed.ca.gov—The Final Programmatic EIS/EIR is posted on the CALFED website. The website also provides several other documents released by CALFED since August 1996. Sections or pages of all these documents can be copied and pasted into any word processing application or e-mail to make reviewing and sharing the documents easier and faster.

2. *CD–ROM*—The CD–ROM contains all of the documents listed below. The CD–ROM is easy to use and indexed for easy navigation. The software required to view the documents is free and included with instructions on the CD. The search capability is one of the CD's most desirable features. For example, if you enter a word, such as ''watershed,'' the search function will find every reference to ''watershed'' in the document. The complete document, or portions of it, can be copied or printed from the CD.

3. *Printed Documents*—The Final Programmatic EIS/EIR and appendices are printed in 18 individual volumes totaling approximately 6,200 pages. Either individual documents or the entire package can be requested. The following documents are part of the Final Programmatic EIS/EIR package:

- Final Programmatic EIS/EIR Main Document (Impact Analysis)
- Executive Summary of the Final Programmatic Environmental Impact Statement/Environmental Impact Report
- Phase II Report
- Implementation Plan
- Response to Comments Document, 3 Volumes
- Ecosystem Restoration Program Plan, 3 Volumes
- Levee System Integrity Program Plan
- Water Quality Program Plan
- Water Use Efficiency Program Plan
- Water Transfer Program Plan
- Watershed Program Plan
- Multi-species Conservation Strategy
- Comprehensive Monitoring Assessment and Review Program Report

Copies of the Final Programmatic EIS/EIR are available for public inspection at:

- Bureau of Reclamation, Office of Policy, Room 7456, 1849 C Street, NW, Washington DC; telephone: (202) 208–4662.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver CO; telephone: (303) 445–2072.
- Bureau of Reclamation, Public Affairs Office, 2800 Cottage Way, Sacramento CA; telephone: (916) 978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW, Main Interior Building, Washington DC.

Copies will also be available for inspection at the following libraries:

Amador County Library; Auburn-Placer County Library; Berkeley Public Library; Butte County Library; Calaveras County Library; California State Archives; California State Library; California State Polytechnic University, Pomona; California State Resources Library; California State University, Bakersfield; California State University, Chico; California State University, Fresno; California State University, Long Beach; California State University, Sacramento; California State University, San Diego; California State University, San Francisco; California State University, San Jose; California State University, Stanislaus; Colusa County Free Library; Contra Costa County Library; The Council of State Governments; County of Los Angeles Public Library, Government Publications; County of Los Angeles Public Library, Lancaster Library; Dixon Unified School District Library; El Dorado County Library; Fresno County Public Library; Golden Gate University; Grass Valley Library, Nevada County Library; Humboldt County Library; Inyo County Free Library; Kern County Library; Kings County Library; Lake County Library; Library of Congress; Lodi Public Library; Los Angeles County Law Library; Los Angeles Public Library; Los Banos Branch Library, Merced County Library; Madera County Library; Marin County Library; Mariposa County Library; Mendicino County Library; Merced County Library; Mono County Free Library; Monterey County Free Libraries; Napa City-County Library; Natural Resources Library; Nevada County Library; Oakland Public Library; Orange County Public Library; Orland Free Library; Plumas County Library; Quincy Library; Sacramento County Law Library; Sacramento Public Library; San Diego County Library; San Diego Public Library; San Diego State University, Malcolm A. Love Library; San Francisco Public Library; San Jose Public Library; San Luis Obispo City-County Library; Santa Barbara Public Library; Santa Clara County Library; Santa Cruz Public Library; Shasta County Library; Solano County Library; Sonoma County Library; Stanford University, Green Library; Stanislaus County Free Library; Stockton-San Joaquin County Public Library; Sutter County Library; Tehama County Library; Tulare County Free Library; Tulare Public Library; Tuolumne County Free Library; University of California, Berkeley; University of California, Davis, Shields Library; University of California, Los Angeles, Bruman Library; University of California, San Diego; University of California, Santa Barbara; Willows Public Library; Yolo County Library; Yuba County Library.

Dated: July 12, 2000.

John F. Davis,

Acting Regional Director.

[FR Doc. 00–18240 Filed 7–19–00; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–696 (Review)]

Pure Magnesuim From China

AGENCY: International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping

duty order on pure magnesium from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on pure magnesium from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On July 6, 2000, the Commission determined that the domestic interested party group response to its notice of institution (65 FR 17531, April 3, 2000) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on August 1, 2000, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 4, 2000, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 4, 2000. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: July 14, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–18317 Filed 7–19–00; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[2] The Commission has found the response submitted by Magcorp to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

DEPARTMENT OF JUSTICE

United States Parole Commission

Sunshine Act Meeting; Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec 552b)

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately three p.m. on Wednesday, July 12, 2000, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide two appeals from the National Commissioners' decisions pursuant to 28 CFR section 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Michael J. Gaines, Marie F. Ragghianti, Edward F. Reilly, Jr., John R. Simpson, and Janie L. Jeffers.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: July 14, 2000.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 00–18483 Filed 7–18–00; 11:02 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary; Submission for OMB Review; Comment Request

July 10, 2000.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation for BLS, ETA, PWBA, and OASAM contact Karin Kurz ((202) 219–5096 ext. 159 or by E-mail to Kurz-Karin@dol.gov). To obtain documentation of ESA, MSHA, OSHA, and VETS contact Darrin King

((202) 219–5096 ext. 151 or by E-mail to King-Darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Employment and Training Administration.

Title: Job Corps Application Data.

OMB Number: 1205–0025.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; State, Local, or Tribal Government.

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
ETA 652	94,792	One-time	94,792	25 Min	39,497
ETA 655	91,732	One-time	91,732	5 Min	7,644
ETA 682	7,768	On occasion	7,768	5 Min	640
Totals					47,781

Total annualized capital/startup costs: $2,680,000.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: These forms are used to obtain information for screening and enrollment purposes to determine eligibility for the Job Corps Program. They are prepared by the admissions counselor for each applicant and have no further impact on the public.

Ira L. Mills,

Departmental Clearance Office.

[FR Doc. 00–18350 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,435 and NAFTA–3754]

Oshkosh B'Gosh, Inc., Distribution Center, Oshkosh, Wisconsin; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Oshkosh B'Gosh, Inc., Distribution Center, Oshkosh, Wisconsin. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37, 435 and NAFTA–3754; Oshkosh B'Gosh, Inc., Distribution Center, Oshkosh, Wisconsin (July 10, 2000)

Signed at Washington, D.C. this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18357 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,603]

A. Schulman, Inc., Dispersion Division, Orange, TX; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 28, 2000, the petitioner, PACE Local 4–836, requests administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on May 25, 2000, and published in the **Federal Register** on June 29, 2000 (65 FR 40135).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers at A. Schulman, Inc., Dispersion Division, Orange, Texas, produce polypropylene and polyethylene products (TPPs and PBAs). The workers were denied eligibility to apply for TAA based on the finding that criterion (3) of the worker group eligibility requirements of Section 223 of the Trade Act of 1974, as amended, was not met. Increased imports did not contribute importantly to worker separations at the subject firm.

The petitioner asserts that the production equipment moved to Mexico will be used to produce articles like or directly competitive with those produced by the workers of A. Schulman, Inc. at the Orange, Texas plant.

The Trade Act of 1974 does not contain provisions to certify a worker group based on a shift in production to a foreign country.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 12th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18352 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,820]

Ametek U.S. Gauge, Inc., Sellersville, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Ace of 1974, an investigation was initiated on June 19, 2000, in response to a petition which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers at Ametek U.S. Gauge, Inc., Sellersville, Pennsylvania.

The petitioner has withdrawn the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 28th day of June, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–18363 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37, 612]

AST Research, Inc., Fort Worth, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at AST Research, Inc., Fort Worth, Texas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37, 612; AST Research, Inc., Fort Worth, Texas (July 10, 2000)

Signed at Washington, DC this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18355 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,647 and 647D]

Cluett, Peabody and Company, Inc. the Enterprise Plant, Enterprise, AL and Cluett, Peabody and Company, Inc., Corporate Office and Administration, Smyrna, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 16, 1999, applicable to workers of Cluett, Peabody and Company, Inc., The Enterprise Plant, Enterprise, Alabama. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55750).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of men's shirts. New information shows that worker separations will occur at the Corporate Office and Administration, Smyrna, Georgia location of Cluett, Peabody and Company, Inc. The workers provide administration and support function services for the subject firm's production facilities located in Alabama and Georgia.

Accordingly, the Department is amending the certification to cover workers of Cluett, Peabody and Company, Inc., Corporate Office and Administration, Smyrna, Georgia.

The Intent of the Department's certification is to include all workers of Cluett, Peabody and Company, Inc. adversely affected by increased imports of men's shirts.

The amended notice applicable to TA–W–36,647 is hereby issued as follows:

All workers of Cluett, Peabody and Company, Inc., The Enterprise Plant, Enterprise, Alabama (TA–W–36,647) and Corporate Office and Administration, Smyrna, Georgia (TA–W–36,647D) who became totally or partially separated from employment on or after August 10, 1998 through September 16, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington D.C. this 30th day of June, 2000.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 00–18360 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37, 608]

Concord Fabrics, Inc., New York City, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Concord Fabrics, Inc., New York City, New York. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37,608; Concord Fabrics, Inc. New York City, New York (July 12, 2000)

Signed at Washington, D.C. this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18356 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,796]

Invensys Best Power, Necedah, Wisconsin; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 19, 2000, in response to a petition which was filed on behalf of workers at Ivensys Best Power, Necedah, Wisconsin. The workers produce power protection equipment.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 29th day of June, 2000.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 00–18364 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–37,685]

Makco Manufacturing Co., Inc., Edinboro, Pennsylvania; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 22, 2000, in response to a worker petition which was filed on behalf of workers at Makco Manufacturing Co., Inc., Engineering Department, Edinboro, Pennsylvania.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 30th day of June, 2000.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 00–18362 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,409 and NAFTA –3738]

Quaker Oats Company, St. Joseph, Missouri; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Quaker Oats Company, St. Joseph, Missouri. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37,409 and NAFTA–3738; Quaker Oats Company, St. Joseph, Missouri (July 10, 2000)

Signed at Washington, D.C. this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18358 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,425]

SKF USA Inc., Hub Bearing United Division, Glasgow, Kentucky; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 15, 2000, one of the petitioners request administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on May 31, 2000, and published in the **Federal Register** on June 29, 2000 (65 FR 40134).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers at SKF USA Inc., Hub Bearing Unit Division, Glasgow, Kentucky, producing hub wheel bearings on a contract basis for automobile manufacturers were denied TAA because the ''contributed importantly'' criterion of the group eligibility requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The investigation revealed that the subject firm sales increased and imports declined during the relevant time period. Layoffs occurred as the inventory levels of product mix changed with demand from subject firm's contract customers.

The petitioner feels that the petition investigation was not conducted in a proper manner and was not given the full consideration necessary in the petitioners' special case. The Department acknowledges the decision was not issued in the statutorily required 60 day time limit; a final determination for the petition, instituted on March 6, 2000, was not rendered by the Department until May 31, 2000. Additional time was required by the investigator in order to obtain all of information necessary to present the findings of the petition investigation to the Certifying Officer.

The petitioner asserts in the application for reconsideration that while sales may have increased due to a stockpile of inventory, the company has not recalled workers affected by the initial round of layoffs. The petition investigation revealed that layoffs occurred and production declined at the subject firm. Therefore, criteria (1) and (2) of the worker group eligibility requirements of Section 222 of the Trade Act of 1974 are met.

The petitioner states that there are companies abroad shipping product (like those produced by the subject firm workers) to Glasgow, Kentucky for repackaging. The petitioner states that there is reason to believe (without providing evidence) that the CDW and the EN/FN bearings produced in Glasgow are manufactured overseas and are imported to the Glasgow, Kentucky for repackaging. Import data provided by the subject firm included imports of the articles cited by the petitioner. Total company imports of articles like or directly competitive with those produced by workers in the Glasgow plant decreased during the time period covered by the investigation. Criterion (3) of the group eligibility requirements of Section 222 of the Trade Act of 1974 requires that increased imports of articles like or directly competitive with those produced by the subject firm workers contribute importantly to declines in sales or production and worker separations.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 7th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18359 Filed 7–9–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–TAA–3846]

Lebanon Machine, Lebanon, Oregon; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Lebanon Machine, Lebanon, Oregon. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–TAA–3846; Lebanon Machine, Lebanon, Oregon (July 10, 2000.

Signed at Washington, DC this 12th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18354 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–3849]

A. Schulman, Inc., Dispersion Division, Orange, Texas; Notice of Revised Determination on Reopening

By letter of June 28, 2000, the petitioner, PACE Local 4–836, requested administrative reconsideration of the Department's denial North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) for workers and former workers of the subject firm.

The workers at A. Schulman, Inc., Dispersion Division, Orange, Texas, produce polypropylene and polyethylene products (TPPs and PBAs). The workers were denied eligibility to apply for NAFTA–TAA based on the finding that criteria (3) and (4) of paragraph (a)(1) of Section 250 of the Trade Act of 1974, as amended, were not met. The A. Schulman, Inc., Dispersion Division, Orange, Texas, did not import polypropylene and polyethylene products from Mexico or Canada, nor did it shift production from Orange, Texas to those countries. The notice was published in the **Federal Register** on June 8, 2000 (65 FR 36470).

New information provided by the petitioner and review of the investigation findings show that there was a shift in production from the Orange, Texas plant to Mexico.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that the workers of A. Schulman, Inc., Dispersion Division, Orange, Texas, were adversely affected by a shift in production to Mexico of articles like or directly competitive with the articles produced at the subject firm.

All workers of A. Schulman, Inc., Dispersion Division, Orange, Texas, who became totally or partially separated from employment on or after March 21, 1999 through two years from the date of this issuance, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 12th day of July 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18353 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply to NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than July 31, 2000.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than July 31, 2000.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 10th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Hearst Entertainment (Wkrs)	Los Angeles, CA	05/26/2000	NAFTA–3,960	television movies.
Cast Alloys (Wkrs)	Northridge, CA	06/05/2000	NAFTA–3,961	golf club heads.
Texas Instruments (Co.)	Versailles, KY	06/05/2000	NAFTA–3,962	pressure controls.
Sagaz Industries (Wkrs)	Miami, FL	06/07/2000	NAFTA–3,963	car seat covers.
Seton Company (Co.)	Saxton, PA	06/07/2000	NAFTA–3,964	leather.
Memphis Chair (Wkrs)	Gainesboro, TN	06/08/2000	NAFTA–3,965	chairs.
O'Neill (Co.)	San Francisco, CA	06/07/2000	NAFTA–3,966	wet suits & life jackets.
ALCO Controls (Co.)	Wytheville, VA	06/08/2000	NAFTA–3,967	valve products.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Mar Kel Lighting (IAMAW)	Paris, TN	06/12/2000	NAFTA–3,968	ceramic & metal lamps.
UFE (Wkrs)	El Paso, TX	06/05/2000	NAFTA–3,969	automotive ignition parts.
Craft House (Co.)	Kalkaska, MI	06/08/2000	NAFTA–3,970	children's toys.
Edgewater Steel (Wkrs/)	Oakmont, PA	06/12/2000	NAFTA–3,971	forded rings & railroad wheels.
Ametek U.S. Guage Division (IAMAW).	Sellersville, PA	06/06/2000	NAFTA–3,972	guages.
Grand Haven Brass Foundry (PACE).	Grand Haven, MI	06/16/2000	NAFTA–3,973	plumbing fixtures.
Hitachi Koki Imaging Solutions (Wkrs).	Simi Valley, CA	06/07/2000	NAFTA–3,974	data products.
Shorewood Packaging Corp. of Alabama (Wkrs).	Andalusia, AL	06/19/2000	NAFTA–3,975	customized packaging.
I.C. Isaacs (Co.)	Raleigh, MS	06/08/2000	NAFTA–3,976	jeans.
Eagle River Knits (Co.)	Monroe, NC	06/13/2000	NAFTA–3,977	circular knitted fabric.
Key Industries (Co.)	Buffalo, MO	06/07/2000	NAFTA–3,978	work clothes.
VDO North America (Co.)	Cheshire, CT	05/19/2000	NAFTA–3,979	automotive Components.
Morton Forest (Co.)	Morton, WA	06/16/2000	NAFTA–3,980	lumber.
Tweco Products (Co.)	Wichita, KS	06/02/2000	NAFTA–3,981	welding accessories.
Friedman Bag (Wkrs)	Portland, OR	06/21/2000	NAFTA–3,982	textile bags.
Four Seasons of Georgetown (Co.).	Georgetown, SC	06/22/2000	NAFTA–3,983	screen print garments.
La Crosse Footwear (Wkrs)	Clintonville, WI	06/20/2000	NAFTA–3,984	ladies tops.
Frink American (IAMAW)	Clayton, NY	06/12/2000	NAFTA–3,985	snow plows.
Tri Quest Precision Plastic (Co.)	Vancouver, WA	06/22/2000	NAFTA–3,986	plastics.
K and R Sportswear (Co.)	Spring Hope, NC	06/26/2000	NAFTA–3,987	sewing & finishing apparel.
P.H. Glatfelter (Wkrs)	Pisgah Forest, NC	06/26/2000	NAFTA–3,988	printing paper, tea bags, bible paper.
Indiana Knitwear (Wkrs)	Greanfield, TN	06/26/2000	NAFTA–3,989	men's & boys' knits shirts & pants.
Collins Products (IAM)	Klamath Falls, OR	06/23/2000	NAFTA–3,990	plywood.
Sims Deltec (Co.)	St. Paul, MN	05/03/2000	NAFTA–3,991	disposable medical devices.
Mascotech Forming Technologies (USWA).	Ypslanti, MI	06/01/2000	NAFTA–3,992	screw machine products.
Whitehall Leather Company (Co.)	Whitehall, MI	06/27/2000	NAFTA–3,993	raw animal hides.
WildFire Pacific ()	Kent, WA	06/30/2000	NAFTA–3,994	Fire Fight Apparatus.
Johns Manville Int'l. (Co.)	Saco, ME	06/29/2000	NAFTA–3,995	Foam Insulation
Federal Mogul Corporation (UAW).	Milan, MI	05/31/2000	NAFTA–3,996	fuel pump soals.
PL Garment Finishers ()	McRae, GA	06/23/2000	NAFTA–3,997	Blue Jeans.
Trinity Industries (UAW)	Mt. Orab, OH	04/19/2000	NAFTA–3,998	railcars.
Johnson Controls, Inc. (IBEW)	Goshen, IN	06/30/2000	NAFTA–3,999	machining equipment.
Springs Industries, Inc. (Co.)	Griffin, GA	06/28/2000	NAFTA–4,000	knitted infant & toddler apparel.
Flowserve Corporation (Wkrs)	Temecula, CA	06/26/2000	NAFTA–4,001	shaft seals.
American Meter ()	Erie, PA	06/28/2000	NAFTA–4,002	Radial Flow Valve Machining and Assembly.
Wallowa Forest Products (Wkrs)	Wallowa, OR	06/28/2000	NAFTA–4,003	Demensional lumber, chips and hog fuel.
McGuire Nicholas (Wkrs)	Commerce, CA	06/15/2000	NAFTA–4,004	business products.
Graphic Vinyl Products (Wkrs)	Newark, NY	06/30/2000	NAFTA–4,005	CD cases.
Chipman Union (Co.)	Belmont, NC	07/03/2000	NAFTA–4,006	socks.
Key Industries (Co.)	Fort Scott, KS	06/30/2000	NAFTA–4,007	work clothes.
ITT Industries (Co.)	Tawas City, MI	06/29/2000	NAFTA–4,008	vacuum harnesses.

[FR Doc. 00–18361 Filed 7–19–00; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the ''National Longitudinal Survey of Women.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before September 18, 2000.

ADDRESSES: Send comments to Sytrina D. Toon, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Sytrina D. Toon, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Longitudinal Survey of Women (NLSW) has been conducted since the late 1960s. Historically, the NLSW was collected as two surveys, the Survey of Work Experience for Mature Women (which includes women born from April 2, 1923 to April 1, 1937) and the Survey of Work Experience for Young Women (which includes women born in the years 1944 to 1954). In 1995, the Bureau of the Census, which collects the data for the Bureau of Labor Statistics, combined the mature and young women's cohorts into a single survey, a change that has improved the efficiency of survey operations.

The data collected in the NLSW contribute to the knowledge about opportunities and services for women who are in the labor force, want to re-enter the labor force, or choose not to participate in the labor force. Survey data also contribute to the knowledge about women's ability to succeed in the job market and how their levels of success relate to educational attainment, vocational training, prior occupational experiences, general and job-specific experiences, and retirement decisions.

Research based on the NLSW contributes to the formation of national policy in the areas of education, training and employment programs, unemployment compensation, and retirement income from pensions and Social Security. In addition, members of the academic community publish articles and reports based on NLSW data for the Department of Labor (DOL) and other funding agencies. The DOL uses the measurement of changes in the labor market to design programs that would ease employment and unemployment problems. The survey design provides data gathered over time to form the only data set that contains this type of information for this important population group. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policymakers, and the DOL could not perform its policy- and report-making activities, as described above.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

The 2001 NLSW will document work experience, labor force attachment, participation in educational or training programs, financial status, health, and health insurance coverage. The survey will be used to identify any significant trends in women's work experience as a whole. The survey will continue to obtain detailed information on the work history and pension coverage of respondents' husbands. In addition, the survey will obtain information on intergenerational transfers of time and money between respondents and their parents or their spouses' parents.

As in previous administrations of the NLSW, 10 percent of the sample in 2001 will be asked to participate in a brief follow-up interview that will last approximately 5 minutes. This reinterview is a quality-control tool, in which managers at the Census Bureau ask respondents a few questions to verify that an interview took place.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Women.

OMB Number: 1220–0110.

Affected Public: Individuals or households.

Total Respondents: 7,575.

Frequency: Biennially.

Total Responses: 7,575.

Average Time Per Response: 60 minutes for pretest and main fielding; 5 minutes for reinterview.

Estimated Total Burden Hours: 6,976.

Form	Total respondemts	Frequency	Total responses	Average time per response	Estimated total burden (in hours)
Pretest	30	Biennially	30	60 minutes	30
Main Fielding	6,859	Biennially	6,859	60 minutes	6,889
Reinterview	686	Biennially	686	5 minutes	57
Totals	7,575	/////////	7,575	60 minutes	6,976

An allowance of 30 extra hours has been added to the burden estimate for the main fielding to account for the possibility of a complete pretest failure, which would necessitate interviewing pretest respondents during the main fielding period.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 14th day of July 2000.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 00–18351 Filed 7–19–00; 8:45 am]

BILLING CODE 4510–24–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

FirstEnergy Nuclear Operating Company; Davis-Besse Nuclear Power Station, Unit 1 Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of FirstEnergy Nuclear Operating Company (FENOC) (the licensee) to withdraw its January 25, 2000, application for proposed amendment to Facility Operating License No. NPF–3 for the Davis-Besse Nuclear Power Station, Unit No.1, located in Ottawa County, Ohio.

The proposed amendment would have revised the Once-Through Steam Generator (OTSG) tube repair roll process for use during the Twelfth Refueling Outage. At a meeting on April 6, 2000, the Babcock and Wilcox Owners Group, of which FENOC is a member, announced they are developing a Topical Report that will support eliminating certain accidents from consideration in OTSG design. This Topical Report is scheduled to be submitted to the Nuclear Regulatory Commission (NRC) in the summer of 2000 for review and approval. Since the subject license amendment request content will be affected by the Topical Report, and since the OTSG repairs for the Twelfth Refueling Outage were completed without using the repair roll process, FENOC is withdrawing the subject license amendment.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 23, 2000 (65 FR 9008). However, by letter dated May 9, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 25, 2000, and the licensee's letter dated May 9, 2000, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th day of July 2000.

For the Nuclear Regulatory Commission.

Stephen P. Sands,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18424 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220 and 50–410]

Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Nine Mile Point Nuclear Station, Units 1 and 2; Notice of Withdrawal of Application for Approval of Transfer of Facility Operating Licenses and Conforming Amendments

The U.S. Nuclear Regulatory Commission (the Commission) has permitted the withdrawal of the application dated September 10, 1999, filed by Niagara Mohawk Power Corporation (NMPC), New York State Electric & Gas Corporation (NYSEG) and AmerGen Energy Company, LLC (AmerGen), which had requested Commission approval of the proposed transfer of the licenses for Nine Mile Point Nuclear Station, Units 1 and 2, to the extent held by NMPC and NYSEG, to AmerGen.

The Commission had previously published a Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing (64 FR 52798, dated September 30, 1999). Pursuant to such notice, three current co-owners of the facility (Rochester Gas And Electric Corporation, Central Hudson Gas & Electric Corporation, and Long Island Lighting Company) filed hearing requests and petitions to intervene in opposition to the application. The Attorney General of the State of New York also filed a petition to intervene. By a joint letter dated May 24, 2000, the applicants NMPC, NYSEG and AmerGen withdrew their application. In addition, by a motion filed that same date, the applicants requested dismissal of the proceeding regarding the hearing requests that have been pending before the Commission. By order dated June 13, 2000, the Commission terminated that proceeding.

For further details with respect to this withdrawal, see (1) NMPC, NYSEG and AmerGen's letter dated May 24, 2000, available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC; and (2) the Commission's Order dated June 13, 2000, dismissing the license transfer proceeding. Alternately, these documents may be viewed electronically under Accession Numbers ML003719110 and ML003723369 thru the ADAMS Public Electronic Reading Room link at the NRC website (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 13th day of July, 2000.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18426 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Sequoyah Nuclear Plant, Units 1 and 2 Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–77 and DPR–79, issued to the Tennessee Valley Authority (TVA or the licensee), for operation of the Sequoyah Nuclear Plant (SQN), Units 1 and 2 located in Soddy-Daisy, Tennessee.

The proposed amendments would change Technical Specification 3.7.5.c to allow an increase in the average essential raw cooling water (ERCW) supply header temperature from 84.5°F to 87°F until September 30, 2000.

Exigent circumstances arose due to significant increases in the average water temperature of the Tennessee River (Chickamauga Reservoir), which serves as the ultimate heat sink (UHS) for the Sequoyah Nuclear Plant (SQN), Units 1 and 2. This temperature, as measured at SQN's ERCW header, has increased as the result of drought-induced low flow conditions and on July 12, 2000, had reached 81.4°F. TVA estimates that continuing weather conditions could cause the average temperature to reach the Technical Specification (TSs) limit of 84.5°F as early as July 22, 2000. SQN TSs Section 3.7.5.c currently limits ERCW supply header temperature to less than or equal to 84.5°F when the Chickamauga Reservoir water level is above elevation 680 feet mean sea level.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence or the consequences of an accident are not increased as presently analyzed in the safety analysis since the objective of the event mitigation is not changed. No changes in event classification as discussed in Final Safety Analysis Report Chapter 15 will occur due to the increased river water temperature (with respect to both containment integrity and safety-system heat removal). Therefore, the probability of an accident or malfunction of equipment presently evaluated in the safety analyses will not be increased. The containment design pressure is not challenged by allowing an increase in the river water temperature above that allowed by the TSs, thereby ensuring that the potential for increasing offsite dose limits above those presently analyzed at the containment design pressure of 12.0 pounds per square inch is not a concern. In addition, SQN's essential raw cooling water (ERCW) and component cooling system (CCS) piping, pipe supports remain qualified to the design basis and code allowables. Therefore, the proposed variance to TS 3.7.5.c will not significantly increase the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility of a new or different accident situation occurring as a result of this condition is not created. The ERCW system is not an initiator of any accident and only serves as a heat sink for normal and upset plant conditions. By allowing this change in operating temperatures, only the assumptions in the containment pressure analysis are changed. The variance in the ERCW temperature results in minimal increase in peak containment accident pressure. As for the net positive suction head requirements relative to the essential core cooling system and containment spray system, it has been demonstrated that this operational variance will not challenge the present design requirements. In addition, increased river temperatures will not significantly affect the design basis analysis of ERCW or CCS piping, pipe supports, and components. Therefore, the potential for creating a new or unanalyzed condition is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The margin of safety as reported in the basis for the TSs is also not reduced. The design pressure for the containment and all supporting equipment and components for worse-case accident condition is 12.0 pounds per square inch gauge (psig). This variance in river water temperature will not challenge the design condition of containment. Further, 12.0 psig design limit is not the failure point of containment, which would lead to the loss of containment integrity. In addition, analysis of the margins associated with ERCW and CCS piping, pipe supports, and components indicate these remain enveloped by the proposed increase in river temperature. Therefore, a significant reduction in the margin to safety is not created by this variance.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 21, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the

petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to General Council, Tennessee Valley Authority, ET 11H, 400 West Summit Hill Drive, Knoxville, Tennessee, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 13, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th day of July 2000.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18421 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Meeting on 10 CFR Part 70; Standard Review Plan

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will host a public meeting in Rockville, Maryland. The meeting will provide an opportunity for discussion of stakeholder comments on the revised Standard Review Plan (SRP) chapters and Nuclear Energy Institute's (NEI) revised Integrated Safety Analysis (ISA) Summary guidance document. The revised SRP can be reviewed on the Internet at the following website: http://techconf.llnl.gov/cgi-bin/library?source=*&library=Part_70_lib&file

PURPOSE: This meeting will provide an opportunity to discuss any comments on the staff's recently revised SRP chapters.

DATES: The meeting is scheduled for Thursday, August 3, 2000, from 9 a.m. to 4:30 p.m. The meeting is open to the public.

ADDRESSES: ASLBP Hearing Room at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the meeting site is located adjacent to the White Flint Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Philip Ting, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–7156, e-mail *pxt@nrc.gov.*

Dated at Rockville, Maryland this 14th day of July, 2000.

For the Nuclear Regulatory Commission.

Philip Ting,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 00–18422 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Correction to Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On June 28, 2000, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration. On page 39961, under Southern Nuclear Operating Company, Inc., *et al.,* Docket Nos. 50–424 and 50–425, the Date of amendment request should have been March 6, 2000.

Dated at Rockville, Maryland, this 14th day of July, 2000.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18423 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance about Materials Licenses: Guidance about Administrative Licensing Procedures

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The NRC is announcing the availability of, and requesting comments on, draft NUREG–1556, Volume 20, ''Consolidated Guidance about Materials Licenses: Guidance about Administrative Licensing Procedures,'' dated July 2000.

The NRC is using Business Process Redesign techniques to redesign its materials licensing process, as described in NUREG–1539, ''Methodology and Findings of the NRC's Materials Licensing Process Redesign.'' A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the 20th guidance document developed for the new process.

This guidance is intended for use by the NRC staff, and will also be available to Agreement States, applicants, and licensees. This document combines and updates the guidance for NRC license reviewers and licensing assistants previously found in the documents listed in Appendix A of the NUREG. When published in final form, NRC licensing staff will use these administrative procedures to process license applications and prepare licenses. Note that this document is strictly for public comment and is not for use in preparing or reviewing license applications until it is published in final form. It is being distributed for comments to encourage public participation in its development.

DATES: The comment period ends October 3, 2000. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 20, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Carrie Brown, Mail Stop TWFN 9-C24, Washington, D.C. 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to cxb@nrc.gov. A copy of draft NUREG–1556, Volume 20, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555-0001.

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. The NRC requests comments on this licensing guidance NUREG specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

FOR FURTHER INFORMATION, CONTACT: Mrs. Carrie Brown, TWFN 9-F-C24, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415–8092; electronic mail address: cxb@nrc.gov.

Electronic Access

Draft NUREG–1556, Vol. 20 is available electronically by visiting the NRC's Home Page (http://www.nrc.gov/nrc/nucmat.html).

Dated at Rockville, Maryland, this 13th day of July, 2000.

For the Nuclear Regulatory Commission,

Catherine Haney,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 00–18427 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Well Logging, Tracer, and Field Flood Study Licenses

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of the final NUREG–1556, Volume 14, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Well Logging, Tracer, and Field Flood Study Licenses,'' dated June 2000. This final NUREG report is the 14th program-specific guidance document developed to support an improved material licensing process. NRC is using Business Process Redesign (BPR) techniques to redesign its material licensing process, as described in NUREG–1539, ''Methodology and Findings of the NRC's Materials Licensing Process Redesign.'' A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports.

This final guide has been developed in parallel with the final revision of 10 CFR Part 39, ''Energy Compensation Sources for Well Logging and Other Regulatory Clarifications,'' published as a Final Rule on April 17, 2000 (65 FR 20337). It is intended for use by applicants, licensees, NRC license reviewers, and other NRC personnel.

This final report takes a more risk-informed, performance-based approach to licensing of well logging, tracer, and field flood study operations, and reduces the information (amount and level of detail) needed to support an application to use these devices.

A free single copy of final NUREG–1556, Volume 14, may be requested by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Carrie Brown, Mail Stop TWFN 9-C24, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to *cxb@nrc.gov*. A copy of final NUREG–1556, Volume 14, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION, CONTACT: Mrs. Carrie Brown, Mail Stop TWFN 9-C24, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8092; electronic mail address: cxb@nrc.gov.

Electronic Access

Final NUREG–1556, Vol. 14 is available electronically by visiting NRC's Home Page (http://www.nrc.gov/NRC/nucmat.html).

Dated at Rockville, Maryland, this 13th day of July, 2000.

For the Nuclear Regulatory Commission.

Catherine Haney,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 00–18428 Filed 7–19–00; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (0420–0510).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35) the Peace Corps has submitted to the Office of Management and Budget a request for approval of information collection, OMB Control Number 0420–0510, the Peace Corps Health Status Review Form (PC–1789) and the Report of Medical Exam Form (PC–1790). The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information collection may be obtained from David O'Neill, Office of Medical Services, Peace Corps, 1111 20th Street, NW, Room 5305, Washington, DC 20526. Mr. O'Neill may be contacted by telephone at 202–692–1577. Comments on these forms should also be addressed to the attention of David O'Neill. You must submit your comments by September 18, 2000.

Information Collection Abstract

Title: Health Status Review From (PC–1789); (Report of Medical Exam Form (PC–1790).

Need For and Use of This Information: This collection of information is necessary to comply with the Peace Corps Act (Section 5(e)) which states that ''applicants for enrollment shall receive such health examinations preparatory to their service * * * as the President may deem necessary or appropriate * * * to provide the information needed for clearance, and to serve as a reference for any future Volunteer medical clearance, and to serve as a reference for any future Volunteer disability claim.'' The Peace Corps uses this information to determine the physical and mental suitability for service as a Peace Corps Volunteer.

Respondents: Peace Corps Applicants.

Respondent's Obligation to Reply: Mandatory.

Burden on the Public:

Health Status Review Form (PC–1789)

a. Annual reporting burden: 1,625 hours
b. Annual record keeping burden: 0 hours
c. Estimated average burden per response: 15 minutes
d. Frequency of response: one time
e. Estimated number of likely respondents: 6,500
f. Estimated Cost to Respondents: $3.04 per

Burden on the Public:

Report of Medical Exam Form (PC–1789)

a. Annual reporting burden: 3,000 hours
b. Annual record keeping burden: 0 hours
c. Estimated average burden per response: 30 minutes
d. Frequency of response: one time
e. Estimated number of likely respondents: 6,000
f. Estimated Cost to Respondents: $6.08 per

Responses will be returned by postage-paid reply mail.

This notice is issued in Washington, DC, on July 7, 2000.

Doug Greene,

Chief, Information Officer and Associate Director for Management.

[FR Doc. 00–18348 Filed 7–17–00; 4:24 pm]

BILLING CODE 6051–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Suzy Barker, Director, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on June 22, 2000 (65 FR 38867). Individual authorities established or revoked under Schedules A and B and established under Schedule C between May 1, 2000, and May 31, 2000, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked during May 2000.

Schedule B

No Schedule B authorities were established or revoked during May 2000.

Schedule C

The following Schedule C authorities were established during May 2000:

Department of Agriculture

Confidential Assistant to the Administrator, Farm Service Agency. Effective May 23, 2000.

Department of Commerce

Senior Advisor for Communications to the Under Secretary for Export Administration, Bureau of Export Administration. Effective May 26, 2000.

Special Assistant to the General Counsel. Effective May 26, 2000. Special Assistant to the Under Secretary for Intellectual Property and Director of the U.S. Patent and Trademark Office. Effective May 30, 2000.

Department of Defense

Public Affairs Specialist to the Principal Deputy Assistant

Secretary of Defense for Public Affairs. Effective May 12, 2000.

Department of Education

Confidential Assistant to the Director, White House Liaison. Effective May 4, 2000.

Confidential Assistant to the Senior Advisor to the Secretary. Effective May 4, 2000.

Confidential Assistant to the Senior Advisor to the Secretary. Effective May 17, 2000.

Department of Energy

Staff Assistant to the Assistant Secretary for International Affairs. Effective May 19, 2000.

Special Assistant to the Principal Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 19, 2000.

Associate Director to the Director, Office of Policy. Effective May 23, 2000.

Senior Advisor for Intergovernmental Affairs to the Deputy Assistant Secretary for Intergovernmental and External Affairs. Effective May 25, 2000.

Department of Housing and Urban Development

Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective May 4, 2000.

Special Assistant to the Assistant Secretary for Policy Development and Research. Effective May 4, 2000.

Special Assistant to the Director, Office of Executive Scheduling. Effective May 11, 2000.

Congressional Relations Officer to the Deputy Assistant Secretary for Congressional Relations. Effective May 11, 2000.

Special Assistant to the General Counsel. Effective May 12, 2000.

Special Assistant to the Assistant Secretary for Policy, Development and Research. Effective May 15, 2000.

Director, Office of Executive Scheduling to the Chief of Staff. Effective May 17, 2000.

Special Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective May 17, 2000.

Department of the Interior

Director of Scheduling and Advance to the Deputy Chief of Staff. Effective May 8, 2000.

Special Assistant to the Deputy Chief of Staff. Effective May 8, 2000.

Department of Justice

Assistant to the Attorney General. Effective May 11, 2000.

Department of Labor

Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 17, 2000.

Department of State

Special Assistant to the Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs. Effective May 3, 2000.

Supervisory Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Public Affairs. Effective May 26, 2000.

Department of Transportation

Scheduling and Advance Assistant to the Director of Scheduling and Advance. Effective May 4, 2000.

Department of the Treasury

Director, Public and Business Liaison to the Deputy Assistant Secretary for Public Liaison. Effective May 30, 2000.

Export-Import Bank of the United States

Administrative Specialist to the President and Chairman. Effective May 4, 2000.

Administrative Specialist to the President and Chairman. Effective May 4, 2000.

Administrative Assistant to the Director. Effective May 10, 2000.

Administrative Specialist to the President and Chairman. Effective May 19, 2000.

General Services Administration

Senior Advisor to the Chief of Staff. Effective May 3, 2000.

National Aeronautics and Space Administration

Legislative Affairs Coordinator to the Associate Administrator for Legislative Affairs. Effective May 30, 2000.

National Credit Union Administration

Confidential Assistant to the Board Member. Effective May 26, 2000.

Office of Management and Budget

Legislative Assistant to the Associate Director, Legislative Affairs, Office of Management and Budget. Effective May 5, 2000.

Small Business Administration

Senior Advisor to the Associate Deputy Administrator for Capital Access. Effective May 4, 2000.

U.S. International Trade Commission

Staff Assistant (Legal) to the Commissioner. Effective May 25, 2000.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P.218.

Office of Personnel Management,

Janice R. Lachance,

Director.

[FR Doc. 00–18343 Filed 7–19–00; 8:45 am]

BILLING CODE 6325–01–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: 11:30 a.m., July 21, 2000.

PLACE: Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Annual budget submission for fiscal year 2001.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, 202–789–6820.

Dated: July 17, 2000.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 00–18481 Filed 7–17–00; 5:00 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24557; 812–10778]

Massachusetts Mutual Life Insurance Company, et al., Notice of Application

July 13, 2000.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under sections 6(c) and 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions. The requested order would amend an existing order (''Existing Order'').[1]

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered investment companies to co-invest with certain affiliated entities.

APPLICANTS: Massachusetts Mutual Life Insurance Company and its successors[2] (''MassMutual''); David L. Babson & Company Inc. and its successors (''Babson''), and any other person controlling, controlled by, or under common control with MassMutual that serves as investment adviser to any Registered Fund or any Private Fund (as each is defined below) (together with MassMutual, ''MassMutual Adviser''); MassMutual Corporate Investors (''CI''); MassMutual Participation Investors (''PI'' and with CI, the ''Registered Funds''); MassMutual High Yield Partners II LLC, MassMutual Corporate Value Partners Limited (''CVP''); MassMutual/Darby CBO LLC, SAAR

[1] Massachusetts Mutual Life Insurance Company, et al., Investment Company Act Release Nos. 20381 (June 30, 1994) (notice) and 20427 (July 26, 1994) (order).

[2] For purposes of the requested order, the term ''successors'' means an entity that results from a reorganization or a change in the type of business organization.

Holdings CDO, Limited, Somers CDO, Limited, Perseus CDO I, Limited, MassMutual Global CBO I Limited, Simsbury CLO, Limited, each existing or future entity excepted from the definition of investment company under section 3(c)(1), 3(c)(5), or 3(c)(7) of the Act, or from investment company registration and regulation under section 2(b) of the Act, and for which a MassMutual Adviser serves as investment adviser (respectively, the ''3(c) Funds'' and the ''2(b) Funds''), and any existing or future employees' securities company (as defined in section 2(a)(13) of the Act) established by MassMutual (a ''2(a)(13) Company'' and, collectively with the 3(c) Funds and 2(b) Funds, the ''Private Funds'').

FILING DATES: The application was filed on September 16, 1997, and amended on June 23, 2000. Applications have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 7, 2000, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: Massachusetts Mutual Life Insurance Company, MassMutual Corporate Investors, MassMutual Participation Investors, and MassMutual High Yield Partners II LLC, 1295 State Street, Springfield, Massachusetts 01111; David L. Babson & Company Inc., One Memorial Drive, Cambridge Massachusetts 02141; MassMutual Corporate Value Partners Limited, c/o BankAmerica Trust & Banking (Cayman) Limited, Fort Street, George Town, Grand Cayman, Cayman Islands, British West Indies; and MassMutual Darby CBO LLC, c/o MassMutual Darby CBO IM Inc., c/o Lord Securities Corporation, Two Wall Street, New York, New York, 10005; SAAR Holdings CDO, Limited, Somers CDO, Limited, and Simsbury CLO, Limited, P.O. Box 1984 GT, Elizabeth Square, George Town, Grand Cayman, Cayman Island, British West Indies; and Perseus CDO I, Limited and MassMutual Global CBO I Limited, c/o Queensgate SPV Service Limited, P.O. Box 1093 GT, The Compass Centre, 2nd Floor, Crewe Road, Grand Cayman, Cayman Island, British West Indies.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Registered Funds, both organized as Massachusetts business trusts, are registered under the Act as closed-end management investment companies. CI invests primarily in privately placed fixed income securities with equity features. PI invests primarily in publicly-traded securities and in privately placed fixed income securities with or without equity features. CVP is a special purpose Cayman Islands corporation and is expected from the definition of investment company under section 3(c)(1) of the Act.

2. MassMutual, organized under the laws of the Commonwealth of Massachusetts, is a mutual life insurance company and is registered under the Investment Advisers Act of 1940 (''Advisers Act''). Babson is an indirect subsidiary of MassMutual and an investment adviser registered under the Advisers Act. MassMutal and/or Babson advise the Registered Funds and the Private Funds.

3. Under the Existing Order, MassMutual, the Registered Funds and CVP may coinvest in private placement securities. Applicants seek to amend the Existing Order to extend the relief to additional Private Funds and MassMutual Advisers and modify certain conditions of the Existing Order.[3] For purposes of the requested order, MassMutual or a MassMutual Adviser that coinvests with the Registered Funds is referred to as a ''MassMutual Investor.''

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 under the Act provides that in passing upon applications under section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) of the Act and rule 17d–1 under the Act to amend the Prior Order to permit the Registered Funds to coinvest in private placement securities with a MassMutual Investor and Private Funds.

3. Applicants state that the Registered Funds were originally organized and sold to the public as being able to coinvest in private placement securities jointly with MassMutual, and that this strategy has been successful over a period of years. Applicants also state that the Registered Funds benefit from coinvestments as the increased size of the investment creates an advantage in negotiating the price and protective covenants and in receiving a larger portion of the securities offered in the case of a partial fill (*i.e.,* a situation when the amount of securities offered is less than the amount originally requested). Applicants also state that, because the assets of Private Funds are far greater than the Registered Funds' assets, the Registered Funds are able to participate in offerings that otherwise might not be available to them. Applicants further contend that the conditions of the requested order would assure that the Registered Funds participate in the coinvestment transactions on a basis no less advantageous than the other participants, and that the transactions are consistent with the protection of investors and the provisions, policies and purposes of the Act.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

[3] All existing Private Funds that currently intend to rely on the order are named as applicants, and any other existing or future Private Fund that subsequently relies on the order will comply with the terms and conditions of the application.

1. Each time MassMutual (or a MassMutual Adviser to a Registered Fund) proposes to acquire private placement securities, the acquisition of which would be consistent with the investment objectives and policies of a Registered Fund, the Registered Fund's MassMutual Adviser will offer the Registered Fund the opportunity to acquire an amount of each class of the private placement securities equal to the amount proposed to be acquired by MassMutual (or such MassMutual Adviser). Each Registered Fund may choose to acquire none of the private placement securities or any amount of such securities up to the entire amount being offered to it by the MassMutual Adviser. If one Registered Fund declines the offer or accepts a portion of the private placement securities offered to it, the MassMutual Adviser shall offer the other Registered Fund up to 50% of the aggregate amount of the private placement securities then available for acquisition; provided that the amount of such private placement securities acquired by either Registered Fund shall not exceed the amount of private placement securities acquired by the MassMutual Investor. For purposes of this condition, the amount of any private placement securities acquired or proposed to be acquired by a MassMutual Investor shall be deemed also to include the amount acquired or proposed to be acquired by a Private Fund that is attributable to the MassMutual Investor's direct or indirect percentage ownership interest in that Private Fund.

2. Prior to any co-investment by a Registered Fund, a MassMutual Adviser will make an initial determination of whether the acquisition of the private placement security is consistent with the investment objectives and policies of the Registered Fund and, if so, will submit the proposed coinvestment, including the amount proposed to be acquired by the Registered Fund, the other Registered Fund, a MassMutual Investor and any Private Fund, to the members of the Registered Fund's board of trustees who are not interested persons as defined in section 2(a)(19) of the Act (''Joint Transactions Committee''). A Registered Fund may coinvest in a private placement security only if a majority of the members of the Joint Transactions Committee who have no direct or indirect financial interest in the transaction (''Required Majority'') determine that:

a. The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Registered Fund and its shareholders and do not involve overreaching of the Registered Fund or its shareholders on the part of any person concerned;

b. The transaction is consistent with the Registered Fund's investment objectives and policies as recited in its registration statement and its reports to shareholders; and

c. The coinvestment by another Registered Fund, a MassMutual Investor, or a Private Fund would not disadvantage the Registered Fund, and participation by the Registered Fund would not be on a basis different from or less advantageous than that of other participants.

3. If a MassMutual Adviser determines that a Registered Fund should not acquire any private placement securities offered to it by a MassMutual Adviser pursuant to condition 1 above, the MassMutual Adviser will submit its determination to the Required majority for approval.

4. The Registered Funds, a MassMutual Investor and any Private Fund shall acquire private placement securities in reliance on the order only if the terms, conditions, price, class, registration rights, if any, and any other rights are the same for each Registered Fund, MassMutual Investor and any Private Fund participating in the coinvestment (except that a Registered Fund also may have voting rights). When more than one Registered Fund proposes to coinvest in the same private placement securities, the Required Majority of each Registered Fund shall review the transaction, and make the determinations set forth in condition 2 above, on or about the same time.

5. Except as described below, no Registered Fund may make a follow-on investment (*i.e.,* an additional investment in the same entity in which the Registered Fund and a MassMutual Investor or a Private Fund hold a coinvestment made pursuant to condition 1 above) (''Follow-on Investment'') or exercise warrants, conversion privileges, or other rights unless the MassMutual Investor or the Private Fund makes such Follow-on Investment or exercises such warrants, conversion rights, or other rights at the same time and in amounts proportionate to their respective holdings of the private placement securities. If a MassMutual Investor or a Private Fund anticipates participating in a Follow-on Investment or exercising warrants, conversion rights, or other rights in an amount disproportionate to its holding, the MassMutual Adviser will formulate a recommendation as to the proposed Follow-on Investment or exercise of rights by each Registered Fund and submit the recommendation to each Registered Fund's Required Majority. That recommendation will include an explanation why a MassMutual Investor or a Private Fund, as the case may be, is not participating to the extent of or exercising its proportionate amount. Prior to any such disproportionate Follow-on Investment or exercise, a Registered Fund must obtain approval for the transaction as set forth in condition 2 above. For purposes of this condition 5, the amount of any private placement securities acquired or proposed to be acquired by a MassMutual Investor shall be deemed also to include the amount acquired or proposed to be acquired by a Private Fund that is attributable to the MassMutual Investor's direct or indirect percentage ownership investment in that Private Fund. Transactions pursuant to this condition 5 will be subject to the other conditions set forth in the order granted pursuant to this application.

6. Neither a MassMutual Investor nor a Private Fund will sell, exchange, or otherwise dispose of any interests in any private placement securities acquired pursuant to the order unless each Registered Fund has the opportunity to dispose of the interests at the same time, for the same unit consideration, on the same terms and conditions and in amounts proportionate to their holdings of the private placement securities. With respect to any such transaction, the MassMutual Adviser will formulate a recommendation as to the proposed participation by a Registered Fund and submit the recommendation to the Required Majority. The Registered Fund will dispose of such private placement securities to the extent the Required Majority determines that the disposition is in the best interests of the Registered Fund, is fair and reasonable, and does not involve overreaching of the Registered Fund or its shareholders by any person concerned.

7. The expenses, if any, associated with acquiring, holding or disposing of any private placement securities (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act of 1933) shall, to the extent not payable solely by a MassMutual Adviser under its investment management agreements with the Registered Funds and the Private Funds, be shared by the MassMutual Investor, the Private Funds and the Registered Funds in proportion to the relative amounts of such private placement securities held or being acquired or disposed of, as the case may be, by the MassMutual Investor, the

Private Funds, and the Registered Funds.

8. The Joint Transactions Committee of each Registered Fund will be provided quarterly for review all information concerning co-investments made by the MassMutual Investor, the Private Funds, and the Registered Funds, including investments made by a MassMutual Investor or the Private Funds in which a Registered Fund declined to participate, so that the Joint Transactions Committee may determine whether all investments made during the preceding quarter, including those investments in which the Registered Fund declined to participate, comply with the conditions of the order. In addition, the Joint Transactions Committee will consider at least annually the continued appropriateness of the standards established for co-investments by a Registered Fund, including whether the use of the standards continues to be in the best interests of the Registered Fund and its shareholders and does not involve overreaching on the part of any person concerned.

9. Except for a Follow-on Investment made pursuant to condition 5 above, no coinvestment will be made by a Registered Fund in private placement securities of any entity if another Registered Fund, MassMutual, a MassMutual Adviser or a Private fund then currently holds a security issued by that entity.

10. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e)(2) of the Act) received by the applicants in connection with a transaction will be distributed to the participants on a *pro rata* basis. If any transaction fee is to be held by a MassMutual Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the MassMutual Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided *pro rata* among the participants. No MassMutual Adviser will receive additional compensation or remuneration of any kind as a result of or in connection with a co-investment, or compensation for its services in sponsoring, structuring, or providing managerial assistance to an issuer of private placement securities that is not shared *pro rata* with the other coinvestors.

11. Each applicant will maintain and preserve all records required by section 31 of the Act and any other provisions of the Act and the rules and regulations thereunder applicable to the applicant. The Registered Funds will maintain records required by section 57(f)(3) of the Act as if each of the Registered Funds were a business development company and the coinvestments and any follow-on investments (or exercise of warrants, conversion rights or other rights) were approved under section 57(f).

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–18347 Filed 7–19–00; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of action subject to Intergovernmental review.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 36 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2001, subject to the availability of funds. Ten states do not participate in the EO 12372 process, therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 120 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding on or before August 21, 2000 to the SBDC.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Michael York, State Director, Maricopa Community College, 2411 West 14th Street, Tempe, AZ 85281–6941, (480) 731–8720

Ms. Kimberly Neri, State Director, California Trade & Comm. Agency, 801 K Street, Suite 1700, Sacramento, CA 95814, (916) 324–9538

Mr. Malcolm Barnes, Executive Director, Howard University, 2600 6th St., NW, Room 125, Washington, D.C. 20059 (202) 806–1550

Mr. Michael Finnerty, State Director, Salt Lake Community College,1623 South State Street, Salt Lake City, UT 84115, (801) 957–3481

Ms. Mary Madison, State Director, Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202 (303) 892–3794

Mr. Jerry Cartwright, State Director, University of West Florida, 19 West Garden Street, Pensacola, FL 32501, (850) 595–6060

Mr. Hank Logan, State Director, University of Georgia, Chicopee Complex, Athens, GA 30602, (706) 542–6762

Mr. Sam Males, State Director, University of Nevada/Reno, College of Business Administration, Room 411, Reno, NV 89557–0100, (775) 784–1717

Ms. Debbie Bishop, State Director, Economic Development Council, One North Capitol, Suite 420, Indianapolis, IN 46204, (317) 264–2820 x17

Mr. Darryl Mleynek, State Director, University of Hawaii/Hilo, 200 West Kawili Street, Hilo, HI 96720, (808) 974–7515

Mr. Mark Petrilli, State Director, Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524–5856

Ms. Mary Collins, State Director, University of New Hampshire, 108 McConnell Hall, Durham, NH 03824, (603) 862–6975

Mr. Charles Davis, State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780–4420

Mr. Scott Daugherty, State Director, University of North Carolina, 333 Fayetteville Street Mall, Suite 1150, Raleigh, NC 27514, (919) 715–7272

Dr. Grady Pennington, State Director, SE Oklahoma State University, 517 West University, Durant, OK 74701, (405) 924–0277

Mr. Ronald Hall, State Director, Small Business Development Center, 2727 Second Avenue, Detroit, MI 48201, (313) 964–1798

Mr. Wally Kearns, State Director, University of North Dakota, P.O. Box 7308, Grand Forks, ND 58202, (701) 777–3700

Ms. Erica Kauten, State Director, University of Wisconsin, 432 North Lake Street, Room 423, Madison, WI 53706, (608) 263–7794

Mr. Greg Higgins, State Director, University of Pennsylvania, The

Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898–1219

Mr. John Lenti, State Director, University of South Carolina, College of Business Administration, 1710 College Street, Columbia, SC 29208, (803) 777–4907

Mr. Albert Laabs, Acting State Director, Tennessee Board of Regents, 1415 Murfreesboro Road, Suite 324, Nashville, TN 37217–2833, (615) 366–3900

Mr. Jack Peters, Executive Director, University of Guam, P.O. Box 5061, UOG Station, Mangilao, GU 96923 (671) 735–2590

Mr. Robert Hamlin, Acting State Director, Bryant College, 1150 Douglas Pike, Smithfield, RI 02917, (401) 232–6111

Mr. Wade Druin, State Director, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677–5287

Ms. Carolyn Clark, State Director, Washington State University, 601 West First Avenue, Spokane, WA 99202–3899, (509) 358–7765

Dr. Bruce Whitaker, Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799 (684) 699–9155

FOR FURTHER INFORMATION CONTACT: Johnnie L. Albertson, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW, Suite 4600, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) Increase economic growth;

(c) Assist more small businesses; and

(d) Broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: July 10, 2000.

Johnnie L. Albertson,

Associate Administrator for Small Business Development Centers.

[FR Doc. 00–18170 Filed 7–19–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3364]

Bureau for International Narcotics and Law Enforcement Affairs; Anti-Crime Training and Technical Assistance Program (ACTTA)

AGENCY: Office of Europe and the NIS; Bureau for International Narcotics and Law Enforcement Affairs, State.

ACTION: Notice.

SUMMARY: State Department's Bureau for International Narcotics and Law Enforcement Affairs (INL) developed the Anti-Crime Training and Technical Assistance Program (ACTTA) in 1994 to bring U.S. Federal law enforcement agencies together to provide training and technical assistance in consultation with their counterparts in Central and Eastern Europe. The goal of the program is to increase professionalism and develop the technical capabilities of law enforcement institutions to combat organized crime and promote rule of law while facilitating international law enforcement cooperation.

The ACTTA program continues to include the participation of non-Federal agencies (*e.g.,* universities, private non-profit organizations) in the delivery of law enforcement training and technical assistance to Central and Eastern Europe. This non-Federal component of the ACTTA program has a timeframe of 2000–2002.

DATES: Strict deadlines for submission to the FY 2000 process are: Full proposals must be received at INL no later than Friday, August 18, 2000. Letters of intent are not required. We anticipate that review of full proposals will occur during August 2000. November 1, 2000 should be used as the proposed start date on proposals, unless otherwise directed by a program manager. Applicants should be notified of their status within 3 months, of submission dead line. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Proposals may be submitted to: U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, Navy Hill South, 2430 E Street NW., Washington, DC 20520, Attn: Linda Gower, Grants Officer.

FOR FURTHER INFORMATION CONTACT: Maren Brooks at above address, TEL: 202–776–8555, FAX: 202–776–8703, email: *m.brooks@state.gov* or Linda Gower at above address, TEL: 202–776–8774, FAX: 202–776–8775.

Once the RFA deadline has passed, DOS staff may not discuss this competition in any way with applicants until the proposal review process has been completed.

SUPPLEMENTARY INFORMATION:

Funding Availability

This Program Announcement is for projects to be conducted by agencies/programs outside the Federal government, over a period of up to two years. Actual funding levels will depend upon availability of funds. Current plans are for $400,000 for Slovakia to be available for the new (or renewing) ACTTA award. The funding instrument will be a grant or a cooperative agreement. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to INL are not available under this announcement. This program, though encouraged, does not require matching share. No proposal should exceed a total cost of $400,000.

Program Authority

Authority: Section 635(b) of the Foreign Assistance Act, of 1961 as amended.

Program Objectives

The ACTTA program has been designed to provide assistance to foreign governments which will complement the training and assistance provided by US Federal agencies. All training and assistance of the ACTTA program should be focused on city or local police forces.

The program objectives of the ACTTA program are: (1) Combat the growing threat to U.S. national security posed by the broad range of organized crime activities, (2) help emerging democracies strengthen their national and law enforcement institutions to counter illegal criminal activities, and (3) help emerging democracies develop laws and prosecutorial frameworks to counter organized crime activities.

Program Priorities

The primary focus of this program is Slovakia.

All training conducted under this program must utilize a ''training-of-trainers'' format.

The FY 2000 ACTTA Program Announcement invites training and technical assistance program proposals for community policing methods and promoting ethnic relations in Slovakia.

Eligibility

Eligibility is limited to non-Federal agencies and organizations, and is encouraged with the objective of developing a strong partnership with the state/local law enforcement community. Non-law enforcement proposers are urged to seek collaboration with state/local law enforcement institutions. Letters of support must be included in the proposal. Universities and non-profit organizations are included among entities eligible for funding under this announcement.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address the Program Priorities identified above and meet the following evaluation criteria:

(1) Relevance (20%): Importance and relevance to the goal and objectives of the ACTTA program identified above.

(2) Methodology (25%): Adequacy of the proposed approach and activities, including development of relevant training curricula, training methods proposed, evaluation methodology, project milestones, and final products.

(3) Readiness (25%): Relevant history and experience in conducting training/technical assistance in the program priority areas identified above, strength of proposed training/technical assistance or evaluation teams, past performance record of proposers.

(4) Linkages (15%): Connections to existing law enforcement agencies in Central and Eastern European countries (especially Slovakia), letters of support, from those law enforcement agencies, in addition to previous training or related assistance experience in these countries.

(5) Costs (15%): Adequacy/efficiency of the proposed resources and a percentage of cost sharing.

Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by independent peer panel review composed of INL and other Federal USG agency law enforcement experts. The program managers will consider the panel's recommendations and evaluations in the final selection. Those ranked by the panel and program as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposal rated for possible funding, the program managers will: (a) Ascertain which proposals meet the objectives, fit the criteria posted, and do not duplicate other projects that are currently funded by INL, other USG agencies or foreign governments, or international (**Note:** proposals or elements that duplicate existing activities of USG agencies will not receive award. end note); (b) select the proposal to be funded; (c) determine the total duration of funding for the proposal.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals

(1) Proposals submitted to INL must include the original and three unbound copies of the proposal.

(2) Applicants are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5 x 11″), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed.

(3) Program descriptions must be limited to 20 pages (numbered), not including budget, personnel vitae, letters of support and all appendices, and should be limited to funding requests for one to two year duration. Federally mandated forms are not included within the page count.

(4) Proposals should be sent to INL at the above address.

(5) Facsimile transmissions of full proposals will not be accepted.

(b) Required Elements

(1) Signed title page: The title page should be signed by the Project Director (PD) and the institutional representative and should clearly indicate which program priority or priorities are being addressed. The PD and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period. A budget period is normally two years.

(2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear as a separate page, headed with the proposal title, institution(s) name, investigator(s), total proposed cost and budget period.

(3) Prior training experience: A summary of prior law enforcement training experience should be described, including training related to program priorities identified above and/or conducted in Central and Eastern Europe, especially Slovakia. Reference to each prior training award should

include the title, agency, award number, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4) Statement of work: The proposed project must be completely described, including identification of the problem, project objectives, proposed training methodology, relevance to the goal and objectives of the ACTTA program, and the program priority listed above. Benefits of the proposed project to U.S. law enforcement efforts should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. Statement of work, including and excluding figures and other visual materials, must not exceed 20 pages of length.

(5) Budget: Applicants must submit a Standard form 424 (4–92) ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs.'' Forms are available on the Internet. Go to whitehouse.gov/omb/grants, click on forms. The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Budget text must be included to justify expenses. Additional text should include salaries and benefits by each proposed staff person; direct costs such as travel (airfare, per diem, miscellaneous travel costs); equipment; supplies; contractual, and indirect costs. Indicate if indirect rates are DCAA or other Federal agency approved or proposed rates and provide a copy of the current rate agreement. In addition, furnish the same level of information regarding subgrantee costs, if applicable, and submit a copy of your most recent A–110 audit report. Consultant fees should not exceed $250 per day.

(6) Vitae: Abbreviated curriculum vitae are sought with each proposal. Vitae for each project staff person should not exceed three pages in length.

(c) Other Requirements

Primary Applicant Certification—All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.'' Applicants are also hereby notified of the following:

1. Non procurement Department and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Non procurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants of more than $100,000; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1) Recipients must require applicants/bidders for sub-grants or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to Department of State (DOS). SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOS in accordance with the instructions contained in the award document.

(2) Recipients and sub-recipients are subject to all applicable Federal laws and Federal and Department of State policies, regulations, and procedures applicable to Federal financial assistance awards.

(3) Pre-award Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of State to cover pre-award costs.

(4) This program is subject to the requirements of OMB Circular No. A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' OMB Circular No. A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' and 15 CFR Part 24, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(5) All non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associate with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) a negotiated repayment schedule is established and at least one payment is received, or

(iii) other arrangements satisfactory to the Department of State are made.

(8) Buy American-Made Equipment or Products—Applicants are reminded that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of State has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of State.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of or be subjected to discrimination under any program or activity receiving assistance from the INL ACTTA program.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046.

Classification: This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: July 6, 2000.

Jo Ann Moore,

Coordinator, Office of Europe and New Independent States,, Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State.

Dated: July 12, 2000.

Jo Ann Moore,

Coordinator, Office of Europe and New Independent States, Bureau for International Narcotics and Law Enforcement, U.S. Department of State.

[FR Doc. 00–18122 Filed 7–19–00; 8:45 am]

BILLING CODE 4710–17–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of each of the information collections and the expected burdens. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published on May 9, 2000, [FR 65, pages 26871–26872].

DATES: Comments must be submitted on or before August 21, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

1. *Title:* Revised Standards for Cargo or Baggage Compartments in Transport Category Airplanes.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0614.

Forms(s): None.

Affected Public: 90 respondents (Affected operators under 14 CFR part 121).

Abstract: The information collection from part 121 and 135 carriers is necessary to ensure the operators's compliance to the upgrade of the fire safety standards for cargo or baggage compartments in certain transport category airplanes by eliminating Class D compartments.

Estimated Annual Burden Hours: 720 burden hours annually.

2. *Title:* Revisions to Digital Flight Data Recorders.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0616.

Forms(s): None.

Affected Public: 2960.

Abstract: This rule requires that certain airplanes be equipped to accommodate additional digital flight data recorder parameters. The revisions require additional information to be collected to enable more thorough accident or incident investigations and to enable industry to predict certain trends and make necessary modifications before an accident or incident happens.

Estimated Annual Burden Hours: 1 burden hour.

3. *Title:* Bird/Other Wildlife Strike.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0045.

Forms(s): FAA Form 5200–7.

Affected Public: 5,000 pilots, air traffic control operators, or other individuals who are involved in or see a bird/wildlife strike.

Abstract: Wildlife strike data are collected to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure. The respondents would include the pilot-in command of an aircraft involved in an aircraft wildlife collision, or ATCT personnel, or other airport or airline personnel who have knowledge of the incident.

Estimated Annual Burden Hours: 400 burden hours annually.

Address: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on July 14, 2000.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 00–18408 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held August 8, 2000 at 11 a.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave., SW., Room 1014, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Regina Jones, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9822; fax (202) 267–5075; e-mail Regina.Jones@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on August 8, 2000, at the Federal Aviation Administration, 800 Independence Ave., SW., Room 1014, Washington, DC 20590. The agenda will include:

- New ARAC taskings
- Voting policy
- Meeting locations
- New ARAC members

Attendance is open to the interested public but will be limited to the space

available. The public must make arrangements by August 1, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on July 14, 2000.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 00–18409 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Bossier, Caddo, & DeSoto Parishes, Louisiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed Interstate highway project in Bossier, Caddo, and DeSoto Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: William Farr, Program Operations Manager, Federal Highway Administration, 5304 Flanders Avenue, Suite A, Baton Rouge, Louisiana 70808, Telephone: (225) 767–7615, or Vincent Russo, Environmental Engineer Administrator, Louisiana Department of Transportation and Development, Post Office Box 94245, Baton Rouge, Louisiana 70804–9245, Telephone: (225) 929–9190.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development (DOTD), will prepare an Environmental Impact Statement (EIS) on a proposal to construct a segment of the proposed Interstate Highway 69 (I–69) in Bossier, Caddo, and DeSoto Parishes, Louisiana. This proposal will provide a divided four-lane, limited access highway on new location between US Highway 171 (US 171) near the Town of Stonewall in DeSoto Parish, to Interstate Highway 20 (I–20) near the Town of Haughton in Bossier Parish, a distance of approximately 30 miles. The proposed new highway is a portion of the planned improvements to Congressionally-designated High Priority Corridor Number 18, which will link Indianapolis, Indiana to the lower Rio Grande Valley in Texas. The purpose of this proposal is to improve international and interstate trade in accordance with national and state goals and to facilitate economic development in accordance with state, regional, and local policies, plans, and surface transportation consistent with national, state, regional, and local needs and with the Congressional designation of the corridor.

The location of the proposed new highway generally follows a proposed alignment as developed in the City of Shreveport's 1992 study entitled ''Interstate 69 and the Inner Loop Extension: Compatibility Report''. However, social, economic, and environmental considerations will determine the number and location of alternatives to be developed during the preparation of the EIS. The western terminus of the proposed highway will be an interchange at US 171 near the Town of Stonewall in DeSoto Parish. The eastern terminus of the proposed highway will be an interchange at I–20 near the Town of Haughton in Bossier Parish.

Alternatives under consideration include (1) the construction of a new controlled access highway, including interchanges providing access at I–20, US Highway 71, Louisiana Highway 1, Interstate Highway 49 and US 171, and (2) taking no action and using existing road network to connect the other segments of the proposed highway in the corridor. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Federal and State agencies with jurisdiction by law with regards to the social, economic and environmental impact of this proposal will be requested to act as a Cooperating Agency in this matter in accordance with 40 CFR 1501.6. Numerous public involvement initiatives, including public meetings, newsletters, and advisory committee meetings will be held throughout the course of this study. Additionally, a Public Hearing will be held. Public notice will be given, in local newspapers, of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review prior to the Public Hearing. A formal scoping meeting will be held upon initiation of this project.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the DOTD at the address above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: July 10, 2000.

William A. Sussmann,

Division Administrator, FHWA.

[FR Doc. 00–18385 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–00–7283; Notice No. 00–7]

Hazardous Materials Safety: Public Meeting Related to Customer Service and Regulatory Review

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: RSPA will hold a public meeting to seek information from the public on improving safety, reducing costs (especially to small businesses) and increasing customer service through RSPA's management of the national hazardous materials transportation safety program. This meeting is being held in conjunction with a Hazardous Materials Multimodal Training Seminar sponsored by RSPA on September 12 and 13, 2000.

ADDRESSES: The public meeting will be held at the Sheraton Airport Hotel Cleveland, 5300 Riverside Drive, Cleveland, OH (216–267–1500). For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Charles Betts at the address or phone number listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

DATES: The public meeting will be held on Wednesday, September 13, 2000, 1:00 p.m. to 5:00 p.m.; however, the meeting may end prior to 5:00 p.m., dependent upon public interest.

FOR FURTHER INFORMATION CONTACT: Charles Betts, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590–0001. Phone (202) 366–8553.

SUPPLEMENTARY INFORMATION: *Focus on Issues of Interest to Affected Parties.* RSPA (''we'' and ''our'') is interested in soliciting comments on the kind and quality of services our customers want and their level of satisfaction with the services we currently provide to promote understanding and compliance with the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). These services include the following:

(1) *Hazardous Materials Information Center (HMIC).* A staff of three persons is available Monday to Friday (except Federal holidays) between 9:00 a.m. and 5:00 p.m. (Eastern time) to address telephonic inquiries from shippers, carriers, packaging manufacturers and other persons concerning requirements in the HMR for the safe transportation of hazardous materials. In 1999, the HMIC handled more than 28,000 calls. The toll-free number is 1–800–HMR–4922.

(2) *Internet Access.* Our site on the worldwide web (http://hazmat.dot.gov) provides information concerning hazardous materials rulemakings, exemptions, letters of clarification, international activities, incident data, the *2000 Emergency Response Guidebook* and much more.

(3) *Fax on Demand.* For persons who do not have access to the internet, we operate an automated fax-back system that allows callers access to more than 600 pages of informational materials, including letters of clarification and recently published rulemakings, through their own fax machines. A facsimile copy of the catalog of available documents may be obtained by accessing the fax-on-demand feature through our HMIC number 1–800–HMR–4922.

(4) *Training.* To promote compliance with the HMR, we distribute brochures, charts, publications, training materials, videotapes, and other safety-related information to hazmat employers and hazmat employees in the private and government sectors, as well as to the general public. Hazardous materials training is provided to Federal, State and local enforcement agencies, industry, and emergency response personnel. In addition, we provide personal computer based self-study programs through a CD–ROM modular training series.

(5) *Government-Industry Partnerships.* To the extent permitted through our limited resources, we participate in meetings, conferences, training workshops, and the like sponsored by public sector, industry, and international organizations having an interest in the safe transportation of hazardous materials.

Regulations and Administrative Procedures. On December 20, 1999, we published a notice of regulatory review (Docket No. RSPA–99–5143, 64 FR 71098) requesting comments on the economic impact of the regulations on small entities. This year we are analyzing rules in 49 CFR Part 106, Rulemaking Procedures, Part 107, Hazardous Materials Program Procedures, and Part 171, General Information, Regulations, and Definitions. Meeting participants are invited to take this opportunity to suggest whether specific rules in these parts should be revised or revoked to lessen the impact on small entities.

We are interested, also, in receiving comments on the quality of our processing of written requests for information, applications for exemption and approval, registration statements, and other administrative actions. Meeting participants are encouraged to provide suggestions on how we may improve our performance in processing these administrative actions.

We welcome all comments on ways to improve understanding and compliance with the HMR, including removal of obsolete requirements, revisions to conflicting or confusing requirements, and the use of plain language in regulations. We will address inquiries concerning new or proposed requirements recently published in rulemaking actions concerning RSPA's registration and fee assessment program (Docket No. RSPA–99–5137; 65 FR 7297, February 14, 2000); harmonization of requirements in the HMR pertaining to the transportation of radioactive materials with standards published by the International Atomic Energy Agency (Docket No. RSPA–99–6283; 64 FR 72633, December 28, 1999); and the permitted use, until October 1, 2001, of internationally recognized POISON and POISON GAS labels on packages intended for transportation in international commerce (Docket No. RSPA–99–6195, 64 FR 50260, September 16, 1999 and 64 FR 51719, September 24, 1999).

Representatives from the United States Coast Guard, Federal Aviation Administration, Federal Railroad Administration and Federal Motor Carrier Safety Administration will participate with RSPA in this public meeting and address modal-specific issues.

Conduct of the Meeting. This is an informal meeting intended to produce a dialogue between agency personnel and persons affected by the hazardous materials transportation safety program. The presiding official may find it necessary to limit the time available to each person to ensure that all participants have an opportunity to speak. Conversely, this meeting may conclude early if all persons wishing to participate have been heard. While there will be no transcript of the meeting, RSPA will prepare a written summary of the meeting and post it in this notice's docket (RSPA–00–7283). Persons interested in participating in this public meeting need not be registered for the Hazardous Materials Multimodal Training Seminar.

Robert A. McGuire,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. 00–18312 Filed 7–19–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 21, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0996.

Regulation Project Number: EE–113–82.

Type of Review: Extension.

Title: Required Distributions From Qualified Plans and Individual Retirement Plans.

Description: The regulations provide rules regarding the minimum distribution requirements applicable to section 403(b) contracts and accounts. Such minimum distribution rules do not apply to benefits accrued before January 1, 1987.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 8,400.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–18318 Filed 7–19–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 13, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 21, 2000 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0004.

Form Number: IRS Form 4789.

Type of Review: Extension.

Title: Currency Transaction Report.

Description: Banks and other financial institutions must report transactions in cash of more than $10,000 conducted by their customers. The reports are used to investigate financial and other crimes, especially those involving money laundering.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 180,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 min.

Response time—19 min.

Frequency of Response: Other (as required).

Estimated Total Reporting/Recordkeeping Burden: 4,000,000 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–18319 Filed 7–19–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 13, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 21, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0160.

Form Number: IRS Form 3520.

Type of Review: Revision.

Title: Annual Information Return of Foreign Trust With a U.S. Owner.

Description: Section 6048(b) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return on Form 3520–A. The form is used to report the income and deductions of the foreign trust and provide statements to the U.S. owners and beneficiaries. IRS uses Form 3520–A to determine if the U.S. owner of the trust has included the net income of the trust in it's gross income.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—36 hr., 50 min.

Learning about the law or the form—3 hr., 5 min.

Preparing and sending the form to the IRS—3 hr., 49 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 21,860 hours.

OMB Number: 1545–0192.

Form Number: IRS Form 4970.

Type of Review: Extension.

Title: Tax on Accumulation Distribution of Trusts.

Description: Form 4970 is used by a beneficiary of a domestic or foreign trust to compute the tax adjustment attributable to an accumulation distribution. The form is used to verify whether the correct tax has been paid on the accumulation distribution.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 12 min.

Learning about the law or the form—15 min.

Preparing the form—1 hr., 26 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 96,600.

OMB Number: 1545–0193.

Form Number: IRS Form 4972.

Type of Review: Revision.

Title: Tax on Lump-Sum Distributions (From Qualified Retirement Plans of Plan Participants Born Before 1936).

Description: Internal Revenue Code (IRC) Section 402(e) allows taxpayers to compute a separate tax on lump-sum distribution from a qualified retirement plan. Form 4972 is used to correctly figure that tax. The data is used to verify the correctness of the separate tax. Form 4972 is also used to make the special 20% capital gain election attributable to pre-1974 participation from the lump-sum distribution.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 35,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.

Learning about the law or the form—20 min.

Preparing the form—1 hr., 11 min.

Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 95,550.

OMB Number: 1545–0890.

Form Number: IRS Form 1120–A.
Type of Review: Extension.
Title: U.S. Corporation Short-Form Income Tax Return.
Description: Form 1120–A is used by small corporations, those with less than $500,000 of income and assets, to compute their taxable income and tax liability. The IRS uses Form 1120–A to determine whether corporations have correctly computed their tax liability.
Respondents: Business or other for-profit, Farms.
Estimated Number of Respondents/Recordkeepers: 285,777.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
1120	71 hr., 59 min	41 hr., 10 min	71 hr., 8 min	7 hr., 47 min.
1120–A	44 hr., 43 min	22 hr., 51 min	40 hr., 25 min	4 hr., 29 min.
Schedule D (1120)	6 hr., 56 min	3 hr., 31 min	5 hr., 39 min	32 min.
Schedule H (1120)	5 hr., 59 min	35 min	43 min	0 min.
Schedule PH (1120)	15 hr., 19 min	6 hr., 12 min	8 hr., 35 min	32 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 32,161,344.
OMB Number: 1545–1014.
Form Number: IRS Form 1066 and Schedule Q (Form 1066).
Type of Review: Extension.
Title: U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return (Form 1066); and Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation (Schedule Q).
Description: Form 1066 and Schedule Q (Form 1066) are used by a real estate mortgage investment conduit (REMIC) to figure its tax liability and income and other tax-related information to pass through to its residual holders. IRS uses the information to determine the correct tax liability of the REMIC and its residual holders.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 4,917.
Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 1066	Schedule Q (Form 1066)
Recordkeeping	31 hr., 49 min	6 hr., 28 min.
Learning about the law or the form	8 hr., 27 min	1 hr., 41 min.
Preparing the form	12 hr., 8 min	1 hr., 52 min.
Copying, assembling, and sending the form to the IRS	48 min	0 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 753,776.
OMB Number: 1545–1020.
Form Number: IRS Form 1041–T.
Type of Review: Extension.
Title: Allocation of Estimated Tax Payments to Beneficiaries.
Description: This form was developed to allow a trustee of a trust or an executor of an estate to make an election under Internal Revenue Code (IRC) section 643(g) to allocate any payment of estimated tax to a beneficiary(ies). This form serves as a transmittal so that Service Center personnel can determine the correct amounts that are to be transferred from the fiduciary's account to the individual's account.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—20 min.
Learning about the law or the form—5 min.
Preparing the form—18 min.
Copying, assembling, and sending the form to the IRS—17 min.
Frequency of Response: Other (When such election is made.).
Estimated Total Reporting/Recordkeeping Burden: 1,010.
OMB Number: 1545–1181.
Form Number: IRS Form 8752.
Type of Review: Extension.
Title: Required Payment or Refund Under Section 7519.
Description: This form is used to verify that partnerships and S corporations that have made a section 444 election have correctly reported the payment required under section 7519.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 72,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hr., 44 min.
Learning about the law or the form—1 hr., 0 min.
Preparing, copying, assembling, and sending the form to the IRS—1 hr., 7 min.
Frequency of Response: 72,000
Estimated Total Reporting/Recordkeeping Burden: 565,920.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 00–18320 Filed 7–19–00; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 00–50]

Cancellations of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.
ACTION: Brokers licenses cancellations.

I, as Assistant Commissioner, Office Field Operations, pursuant to section 641(f) Tariff Act of 1930, as amended (19 U.S.C. 1641(f)) and section 111.51(a) of the Customs Regulations (19 111.51(a)), hereby cancel the following

Customs broker licenses without prejudice.

Name	Port	License No.
Nicholas C. D'Ambrosio.	New York	03268
Kurt O. Engel ...	New York	03966
Robbins Fleisig Forwarding, Inc.	New York	07973
Geraldine R. Lyons.	New York	04993
Modern-Aire Expediters, Inc.	New York	04208
Horizon Shipping, Inc.	Houston	14054
Fujiwara America Inc.	Seattle	16400
George H. Reynolds.	San Francisco ..	07475
William Homes	San Francisco ..	05621
Samuel G. Scott	Tampa	03779
The Copeland Co., Inc.	Tampa	04206
William Seeger	Miami	07820

Dated: July 10, 2000.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 00–18386 Filed 7–19–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TREASURY

Customs Service

[T.D. 00-48]

Bonds; Approval to Use Authorized Facsimile Signatures and Seals

Editorial Note: Notice document FR-Document 00-17808 was originally scheduled to publish on Friday, July 14, 2000. It was inadvertently omitted from the issue. It is being printed in today's issue in its entirely.

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date:

Lincoln General Insurance Company
Authorized facsimile signatures on file for:
Gary C. Bhojwani, Attorney-in-fact
Michael S. Brown, Attorney-in-fact

The corporate surety has provided the Customs Service with copies of the signatures to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: July 10, 2000.

Larry L. Burton,

Acting Chief, Entry Procedures and Carriers Branch.

[FR Doc. 00–17808 Filed 7–13–00; 8:45 am]

Editorial Note: Notice document FR-Document 00-17808 was originally scheduled to publish on Friday, July 14, 2000. It was inadvertently omitted from the issue. It is being printed in today's issue in its entirely.

[FR Doc. 00–17808 Filed 7–19–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Securities Offering Disclosure program.

DATES: Submit written comments on or before September 18, 2000.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0035. Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays.

FOR FURTHER INFORMATION CONTACT: Paul Glenn, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6203.

SUPPLEMENTARY INFORMATION:

Title: Securities Offering Disclosure.

OMB Number: 1550–0035.

Form Numbers: SEC forms S–4, S–8, SB–1, SB–2, and OTS Forms PS, OC, and G–12.

Abstract: OTS collects information for disclosure in securities offerings by savings associations related directly to U.S. Securities and Exchange Commission requirements for offering of information to potential securities purchasers.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 71.

Estimated Time Per Respondent: 439 hours.

Estimated Total Annual Burden Hours: 31,194 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 13, 2000.

John E. Werner,

Director, Information & Management Services Division.

[FR Doc. 00–18410 Filed 7–19–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on

proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Annual Reporting Requirements and Disclosures Required by the Securities Exchange Act of 1934.

DATES: Submit written comments on or before September 18, 2000.

ADDRESSES: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0019. Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days. Send facsimile transmissions to FAX Number (202) 906–7755; or (202) 906–6956 (if comments are over 25 pages). Send e-mails to ''public.info@ots.treas.gov'', and include your name and telephone number. Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays.

FOR FURTHER INFORMATION CONTACT: Paul Glenn, Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–6203.

SUPPLEMENTARY INFORMATION:

Title: Annual Reporting Requirements and Disclosures Required by the Securities Exchange Act of 1934.

OMB Number: 1550–0019.

Form Numbers: SEC Schedules 13D, 13g, 14D–1, 14C, 14A, and 14B. SEC Forms 15, 8–A, 10, 10–K, 10–KSB, 8–K, 12b-25, 10–Q, 10–QSB, 3,4,5, and Annual Report.

Abstract: OTS collects periodic disclosure documents required to be filed by savings associations pursuant to the Securities Exchange Act of 1934 on forms promulgated by the S.U. Securities and Exchange Commission for its registrants.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal.

Affected Public: Business or for profit.

Estimated Number of Respondents: 90.

Estimated Time Per Respondent: 3,029 hours.

Estimated Total Annual Burden Hours: 272,613 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or starting costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 13, 2000.

John E. Werner,

Director, Information & Management Services Division.

[FR Doc. 00–18411 Filed 7–19–00; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 21, 2000.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–NEW.''

SUPPLEMENTARY INFORMATION:

Title: Study of Individuals at Risk for Stress Related Illnesses, VA Form 10–21036(NR).

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: This survey collection is intended for the development of ''psychological and biomedical measurements for early identification of individuals at risk for stress-related illnesses.'' VA proposes to design and validate a psychometrically sound inventory of psychosocial risk and resilience factors that will be empirically related to self-reported physical and mental health and health-related quality of life in Gulf War veterans. The inventory will include assessments of multiple dimensions of war-zone stress, predeployment vulnerabilities, and reentry-postwar circumstances.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 11, 2000, at page 19434.

Affected Public: Individuals or households.

Estimated Annual Burden: 525 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 700.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

Dated: June 30, 2000.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 00–18286 Filed 7–19–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

System Name: Privacy Act of 1974, Altered System of Records, General Personnel Records (Title 38)—VA 76VA05

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) is republishing the system of records entitled General Personnel Records (Title 38)—VA (76VA05) as set forth in the **Federal Register** 53 FR 27258 (7/19/

88) and amended in 55 FR 42534 (10/19/90), 58 FR 40852 (7/30/93), and 61 FR 14853 (4/3/96). Changes in law, regulation, technology, function, and organization have resulted in the system notice being out of date. Alterations include the paragraphs for System Location, Individuals Covered by the System of Records, Categories of Records in the System, Routine Uses of the Information, Legal Authority to Maintain the System of Records, and Procedures Related to Storing, Retrieving, Accessing, Retaining, and Disposing of Information in the System of Records. VA is republishing the system notice in its entirety at this time.

DATES: Submit comments on or before August 21, 2000.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this system of records to the Director, Office of Regulations Management (02D), 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1154, 810 Vermont Avenue, NW, Washington, DC 20420 only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the reissued system of records is effective August 21, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McVeigh, Department of Veterans Affairs (051A), 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–9821.

SUPPLEMENTARY INFORMATION: The system location is being changed to include the VA Shared Service Center, 3401 SW 21st Street, Topeka, Kansas 66604 and the offices of non-Federal contractors or subcontractors who may maintain these records. VA is improving its human resources and payroll services and part of that process may include permanently moving records to a centralized location. At this time, the records of employees in Veterans Integrated Service Network 2 and the Atlanta VA Medical Center have been temporarily relocated to the Shared Service Center as a prototype. If the records of employees covered by this system of records are permanently relocated to either of these newly added locations, notice will be provided in the **Federal Register**. The name of the VA Data Processing Center is also being changed to reflect its current title, the VA Austin Automation Center.

The categories of individuals covered by this system of records are being modified to exclude residents appointed on an intermittent basis under 38 U.S.C. 7406 if their stipends are centrally administered under the provisions of 38 U.S.C. 7406(c). VA will no longer maintain records on these employees, since they are ineligible for Federal benefits as a result of their VA service. Coverage is also clarified to indicate that the system of records does not cover employees appointed on a fee or without compensation basis under 38 U.S.C. 7405. They are covered by the system of records entitled Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA (14VA135). In addition, this system of records does not cover VA employees appointed under chapter 3 or 71 of Title 38, U.S. Code.

The categories of records in the system are being changed as follows:

a. Because of the Veterans Health Care Eligibility Reform Act of 1996, Pub.L. 104–262, dated October 9, 1996, employee certification of outside professional activities is no longer required and has not been collected since October 9, 1996. Information concerning certifications prior to October 9, 1996, will remain in the system of records.

b. Information concerning competency assessments, proficiency reports, employee statements regarding proficiency reports given and any recommendations based on them, as well as professional standards board actions and any documents associated with those actions, are being removed from this system. These records are being included in a new system of records entitled Professional Standards Board Action and Proficiency Rating Folder (Title 38)—VA (101VA05), which is being released simultaneously with this notice.

c. Records associated with processing disciplinary and adverse actions, actions based on inaptitude, inefficiency, misconduct, disqualification during probation, physical disqualification, agency-initiated disability retirements, and suitability determinations are being removed from this system of records. This includes any notice of proposed action, materials relied on by VA to support the reason(s) for the action, replies by employees or their representatives, statements of witnesses, hearing notices and reports related to these actions. These records are being included in a new system of records entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05), which is being released simultaneously with this notice.

d. Certain records relating to an employee's participation in the Federal Retirement Investment Thrift Savings Board's Thrift Savings Plan are being added as a relevant and necessary part of this system of records.

The authority for maintenance of the system is being modified to reflect the 1992 reorganization of Title 38, United States Code.

Information concerning the purpose of this system of records has been added. The previous system notice was published before such information was required.

The routine uses of information in this system of records, including categories of users and the purposes of such uses, are being modified as follows:

a. Routine use 1 relating to disclosures to the Office of Personnel Management has been deleted. Such disclosures are only made from the system of records entitled Personnel and Accounting Pay System-VA (27VA047).

b. Routine use 3 relating to disclosures of information to colleges and universities has been split into two routine uses (numbers 2 and 3), since such disclosures are made for two different reasons.

c. Routine uses 8 and 9 relating to awards, honors, and other types of employee recognition have been modified to more clearly indicate what disclosures are made, to whom the disclosures are made and the purposes of such disclosures.

d. Routine use 10 is being modified to clarify the conditions under which data is disclosed to officials of labor organizations recognized under 5 U.S.C., chapter 71. The clarification ties such disclosures to the law authorizing the disclosures, *i.e.,* 5 U.S.C. 7114(b)(4). The former version authorized disclosures to officials of labor organizations ''when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.''

e. Routine use 11 is modified. VA is prohibited from promulgating routine uses that would permit disclosures in response to requests for information for civil or law enforcement purposes or in response to court orders. Such requests must be submitted under the provisions of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable. See *Doe* v. *DiGenova,* 779 F. 2d 74 (D.C Cir. 1985) and *Doe* v. *Stephens,* 851 F. 2d 1457 (D.C. Cir. 1988), and an August 28, 1989, opinion from the Office of Legal Counsel, Department of Justice. Routine use 11

no longer includes such disclosures; however, it has been modified to permit VA to disclose, on its own initiative, relevant information if there is reason to believe that a violation of statute, rule or regulation has occurred.

f. Routine use 14 no longer permits disclosures at the request of agencies in the executive, legislative, or judicial branch of the Federal government, or to the government of the District of Columbia for investigative purposes. Such requests must be submitted under the provisions of 5 U.S.C. 552a(b)(7). That portion of the routine use has been deleted.

g. Routine use 15 has been modified to limit the reason for such disclosures to obtaining accreditation or other approval ratings. It also now permits disclosures to other Federal agencies for this purpose. The former version of this routine use was overly broad.

h. Routine use 18 has been modified so that it no longer permits disclosures in response to subpoenas or court orders. Applicable case law (see paragraph e above) prohibits disclosures in response to subpoenas. Court orders directing the production of information must also meet the requirements of 5 U.S.C. 552a(b)(11). The revised routine use would permit VA to disclose relevant information on its own initiative in certain legal proceedings if VA is party to those proceedings and disclosure is necessary to protect its interests.

i. Routine use 19, relating to requests for discovery or for the appearance of witnesses, has been deleted, since it is no longer consistent with applicable case law (see paragraph e above).

j. Routine use 24 related to disclosures to VA-appointed representatives concerning fitness for duty examinations and disability retirement procedures has been deleted. The information is being removed from this system of records and placed in a new system entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05).

k. Routine use 25, concerning disclosures because an individual may have contracted an illness, been exposed to, or suffered from a health hazard while employed by the Federal government, is being deleted. This subject is addressed in 5 U.S.C. 552a(b)(8).

l. Routine use 29 (now 26), is being changed to delete the language concerning disclosures to the Equal Employment Opportunity Commission to ensure compliance with the Uniform Guidelines on Employee Selection Procedures, since VA has not chosen to adopt the Uniform Guidelines for use in its Title 38 employment procedures.

m. Routine use 30 (now 27), is being clarified to indicate that disclosures to the Federal Labor Relations Authority and Federal Service Impasses Panel may only be made after appropriate jurisdiction has been established. Matters or questions concerning or arising out of (1) professional conduct or competence, (2) peer review and (3) the establishment, determination or adjustment of compensation shall be decided by the Secretary of Veterans Affairs and is not itself subject to collective bargaining and may not be reviewed by another agency. See 38 U.S.C. 7422.

n. Routine use 32 (now 29) is being modified to include Federal agencies. For example, disclosures will be made to the Department of Health and Human Services Exclusionary Database as required by Pub. L. 105–53.

o. Routine use 33 regarding disclosures of information in response to requests from agencies responsible for the issuance, retention or revocation of licenses, certification or registrations required to practice a health care profession has been deleted. Such requests must conform to the requirements of 5 U.S.C. 552a(b)(7).

p. Routine uses 35 and 36, relating to disclosures of information through computer matching, have been deleted, as such disclosures are not made from this system of records.

q. Routine use 39 (now 33) concerning disclosures to license monitoring agencies is being modified to exclude language concerning computer matching. Such disclosures are not made from this system of records.

r. New routine uses are proposed as follows:

(1) Number 35 would permit disclosures to contractors, subcontractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government. However, such disclosures must be in the interest of VA and compatible with the intended purposes for which the record was created.

(2) Number 36 permits, upon request, disclosure to a spouse or dependent child (or a court-appointed guardian thereof) of a VA employee enrolled in the Federal Employees Health Benefits Program, whether the employee changed from a self-and-family enrollment to self-only health benefits enrollment. Such disclosures are made to ensure proper administration of Federal health benefits.

(3) Number 37 permits disclosing information to the Federal Retirement Thrift Investment Board certain information concerning employee participation in the Thrift Savings Plan.

(4) Number 38 permits disclosing information concerning information to the Department of Health and Human Services' Healthcare Integrity and Protection Data Base pursuant to section 221(a), Pub. L. 104–191, and the associated Department of Health and Human Services regulations, 45 CFR part 61.

The policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system are being modified to reflect changes in technology and to provide additional information concerning the safeguards used to protect these records. For example, when VA updates the way it provides personnel and payroll services, individuals will be given remote on-line access to certain documents pertaining to them, *e.g.,* the Notification of Personnel Action, Standard Form 50–B. In the course of providing access, VA will maintain automated information found in this system of records on its Intranet web site. Employees will remotely access this information from access points located at VA stations and/or from their computer desktop. Access will be read-only with printing capability, but restricted through the issuance of user identification codes and personal identification numbers (PINS). User identification codes and PINS will be issued by the VA Shared Service Center. They will not retain a copy of the PIN. If an employee forgets the PIN, he or she must have the PIN reset by the VA Shared Service Center, which will then mail a new PIN to the employee's home address. Security devices (*e.g.* passwords, firewall) are used to control access by VA users and to shield VA networks and systems from users outside the firewall. VA employees, contractors, or subcontractors responsible for maintaining this system of records will be required to establish the necessary controls to ensure that records are protected against loss or unauthorized adulteration and can be located when necessary. They will also be required to ensure that records are protected against unauthorized access and that they understand and apply Privacy Act restrictions on disclosing information from this system of records. Employees are subject to disciplinary action and contractors or subcontractors are subject to sanction for knowingly making an unauthorized disclosure from this system or records or otherwise failing to comply with the requirements related to maintaining and disposing of records. Information concerning the exchange of

data between the VA Austin Automation Center and VA facilities is also being updated to reflect changes in technology. Exchange of information between the Austin Automation Center and VA health care facilities will be over VA's Intranet. The reference to the VADATS telecommunications network has been deleted since it is no longer in operation.

Notification procedures, records access procedures and procedures for contesting the contents of records are being changed to reflect the realignment of these functions within the Department of Veterans Affairs.

Approved: July 6, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

76VA05

SYSTEM NAME:

Altered System of Records, General Personnel Records (Title 38)–VA.

SYSTEM LOCATION:

Active records are maintained at the Department of Veterans Affairs (VA) Central Office, 810 Vermont Avenue, NW., Washington, DC 20420; VA field facilities; VA Austin Automation Center, 1615 East Woodward Street, Austin, Texas 78772; VA Shared Service Center, 3401 SW 21st Street, Topeka, Kansas 66604; and offices of contractors or subcontractors who may maintain these records. When VA determines that portions of these records need to be maintained at different locations or that copies of these records need to be maintained at more than one location, *e.g.,* at the Shared Service Center and administrative offices closer to where employees actually work, such records are covered by this system. Inactive records are retired to the National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Records not considered long-term records, but which may be retained in this system or elsewhere during employment, and which are also included in this system, may be retained for a period of time after the employee leaves service. However, such records will be disposed of in accordance with the procedures for retention and disposal outlined below. The phrase ''long-term'' record describes records that are filed on the right side of the Merged Records Personnel Folder (MRPF) (Standard Form 66–C).

Note 1: It is not VA's intent to limit this system of records to those records physically within the MRPF. Records may be filed in other folders located in offices other than where the MRPF is located, *e.g.,* working files that supervisors or other agency officials use that are derived from 76VA05 may be kept in a more convenient location.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees appointed under 38 U.S.C. 7306, 7401(1), 7401(3), and 38 U.S.C. 7405 except those appointed on a fee or without compensation basis, and residents appointed under 38 U.S.C. 7406 whose stipends and fringe benefits are not centrally administered under the provisions of 38 U.S.C. 7406(c). This includes employees such as physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, expanded-function dental auxiliaries, certified respiratory therapy technicians, registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, occupational therapists, and pharmacists. Current and former employees appointed under 38 U.S.C. Chapter 78 to positions in the Veterans Canteen Service are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records may include identifying information, such as names(s), date of birth, home address, mailing address, Social Security number, and telephone number(s). Records in this system are:

a. Records reflecting work experience, licensure, credentials, educational level achieved, and specialized education or training occurring outside of Federal service.

b. Records reflecting Federal service and documenting work experience, education, training, and/or awards received while employed. Such records contain information about past and present positions held; grades; salaries; duty station locations; and notices of all personnel actions, such as appointments, transfers, reassignments, details, promotions, demotions, staffing adjustments or reductions-in-force, resignations, separations, suspensions, removals, retirements, and approval of disability retirement applications.

c. Records relating to an Intergovernmental Personnel Act assignment or Federal-private sector exchange program.

d. Records regarding Government-sponsored training or participation in employee development programs designed to broaden an employee's work experiences or for the purposes of advancement.

e. Printouts of information from automated personnel systems, *e.g.,* information from the Personnel and Accounting Pay System-VA (27VA047).

f. Records reflecting enrollment or declination of enrollment in the Federal Employees' Group Life Insurance Program and Federal Employees' Health Benefits Program as well as forms showing designations of beneficiary.

g. Elections to participate in the Thrift Savings Plan, Notices that Thrift Savings Plan Contributions cannot be made because a financial hardship withdrawal has been issued and transcripts of Thrift Savings Plan changes approved for use by the Federal Retirement Thrift Investment Board.

h. Records relating to designations for lump-sum leave benefits.

i. Records relating to access to classified information and other nondisclosure agreements.

j. Records related to certification of outside professional activities prior to enactment of the Veterans Health Care Eligibility Reform Act of 1996, Pub. L. 104–262, dated October 9, 1996.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501(a), 7304, 7406(c)(1), and 7802.

PURPOSES(S):

The personnel records in these files are the official repository of the records, reports of personnel actions and the documents and papers associated with these actions. The personnel action reports and other documents give legal force and effect to personnel transactions and establish employee rights and benefits under pertinent laws and regulations governing Federal employment. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in this system have various uses, including screening qualifications of employees; determining status, eligibility, and rights and benefits under pertinent laws and regulations governing Federal employment; computing length of service; and other information needed to provide personnel services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

2. To disclose information to educational institutions about the appointment of their recent graduates to VA positions. These disclosures are made to enhance recruiting relationships between VA and these institutions.

3. To provide college and university officials with information about students who are working at VA to receive academic credit for the experience.

4. To disclose to the following agencies information needed to adjudicate retirement, insurance or health benefits claims: Department of Labor, Social Security Administration, Department of Defense, Federal agencies having special civilian employee retirement programs, and state, county, municipal, or other publicly recognized charitable or income security administration agencies (e.g., State unemployment compensation agencies), when necessary to adjudicate a claim under the retirement, insurance or health benefits programs of the Office of Personnel Management or an agency cited above. Information may also be disclosed to agencies to conduct an analytical study or audit of benefits being paid under such programs.

5. To disclose to the Office of Federal Employees' Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

6. To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a health benefits plan under the Federal Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination or audit of benefits provisions of such contracts.

7. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

8. To disclose relevant information to third parties considering VA employees for awards or recognition and to publicize information about such awards or recognition. This may include disclosures to public and private organizations, including news media, which grant or publicize employee awards or honors.

9. To disclose information about incentive awards and other awards or honors granted by VA. This may include disclosure to public and private organizations, including news media, which publicize such recognition.

10. To disclose the information listed in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

11. VA may, on its own initiative, disclose relevant information to a Federal agency (including Offices of the Inspector General), State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation if there is reason to believe that a violation may have occurred. This routine use does not authorize disclosures in response to requests for information for civil or criminal law enforcement activity purposes, nor does it authorize disclosure of information in response to court orders. Such requests must meet the requirements of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable.

12. To disclose pertinent information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

13. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purposes(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit.

14. To disclose to an agency in the executive, legislative, or judicial branch, or the District of Columbia's Government in response to its request, or at the initiation of VA, information in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, the issuance of a license, grant or other benefit by the requesting agency, or the lawful statutory or administrative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

15. To disclose relevant information to Federal and non-Federal agencies (*i.e.,* State or local governments), and private sector organizations, boards, bureaus, or commissions (*e.g.,* the Joint Commission on Accreditation of Healthcare Organizations) when such disclosures are required to obtain accreditation or other approval ratings.

16. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

17. To provide information to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of the individual.

18. VA may, on its own initiative, disclose information to another Federal agency, court, or party in litigation before a court or other administrative proceeding conducted by a Federal agency, if VA is a party to the proceeding and VA needs to disclose such information to protect its interests.

19. To disclose information to the National Archives and Records Administration (NARA) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

20. To disclose to persons engaged in research and survey projects information necessary to locate individuals for personnel research or survey response, and to produce summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

21. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files in support of the functions for which the records were collected and maintained.

22. When an individual to whom records pertain is mentally incompetent or under other legal disability, information in the individual's records may be disclosed to any person or entity responsible for managing the individual finances to the extent necessary to ensure payment of benefits to which the individual is entitled.

23. To disclose to the Department of Defense specific civil service employment information required under law on individuals identified as members of the Ready Reserve, to ensure continuous mobilization readiness of Ready Reserve units and members, and to identify characteristics of civil service retirees for national mobilization purposes.

24. To disclose information to officials of the Department of Defense, National Oceanic and Atmospheric Administration, U.S. Public Health Service, and the U.S. Coast Guard

needed to effect any adjustments in retired or retainer pay required by the dual compensation provisions of 5 U.S.C. 5532.

25. To disclose information to officials of the Merit Systems Protection Board, or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

26. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation.

27. To disclose to the Federal Labor Relations Authority (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Services Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

28. To disclose to prospective non-Federal employers, the following information about a specifically identified current or former employee: Tenure of employment; civil service status; length of service in VA and the Government; and when separated, the date and nature of action as shown on the Notification of Personnel Action-Standard Form 50 (or authorized exception).

29. Records from this system of records may be disclosed to a Federal, State, or local government agency or licensing board and/or to the Federation of State Medical Boards or a similar non-government entity. These entities maintain records concerning an individual's employment or practice histories or concerning the issuance, retention or revocation of licenses or registration necessary to practice an occupation, profession or specialty. Disclosures may be made for the Agency to obtain information determined relevant to an Agency's decision concerning the hiring, retention, or termination of an employee. Disclosures may also be made to inform licensing boards or the appropriate non-governmental entities about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional practice as to raise reasonable concern for the health and safety of patients.

30. To disclose relevant information to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

31. To disclose hiring, performance, or other personnel-related information to any facility with which there is, or there is proposed to be, an affiliation, sharing agreement, contract, or similar arrangement, for purposes of establishing, maintaining, or expanding any such relationship.

32. Identifying information in this system, including name, address, Social Security number, and other information as is reasonably necessary to identify such individual, may be disclosed to the National Practitioner Data Bank at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention, or termination of the applicant or employee.

33. Relevant information from this system of records may be disclosed to the National Practitioner Data Bank or to a State or local government licensing board which maintains records concerning the issuance, retention, or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty when under the following circumstances, through peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement (or partial settlement of, or in satisfaction of a judgement) in a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days.

34. Relevant information from this system of records concerning the departure of a former VA employee, who is subject to garnishment pursuant to a legal process as defined in 5 U.S.C. 5520a, as well as the name and address of the designated agent for the new employing agency or the name and address of any new private employer, may be disclosed to the garnishing party (garnisher). Information from this system of records may be disclosed in response to legal processes, including interrogatories, served on the agency in connection with garnishment proceedings against current or former VA employees under 5 U.S.C. 5520a.

35. To disclose information to contractors, subcontractors, grantees, or others performing or working on a contract, grant or cooperative agreement for the Federal government, provided disclosure is in the interest of the Government and the information to be disclosed is relevant and necessary for accomplishing the intended uses of the information and necessary to perform services under the contract, grant or cooperative agreement.

36. To disclose to a spouse or dependent child (or court-appointed guardian thereof) of a VA employee enrolled in the Federal Employees Health Benefits Program, upon request, whether the employee has changed from a self-and-family to a self-only health benefits enrollment.

37. To disclose to the Federal Retirement Thrift Investment Board information concerning an employee's election to participate in the Thrift Savings Plan, the employee's ineligibility to make contributions to the Thrift Savings Plan because a financial hardship in-service withdrawal has been issued, or information from a transcript of thrift savings plan changes that has been approved by the Federal Retirement Thrift Investment Board.

38. Information from this system of records will be disclosed to the Healthcare Integrity and Protection Data Base as required by section 1122E of the Social Security Act (as added by Sec. 221(a) of Pub. L. 104–191) and the associated implementing regulations issued by the Department of Health and Human Services, 45 CFR Part 61. For example, VA is required to report adjudicated adverse personnel actions based on acts or omissions that either affected or could have affected the delivery of health care services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

These records may be maintained in file folders, on lists and forms, on microfilm or microfiche, and in computer processable storage media.

RETRIEVABILITY:

These records may be retrieved using various combinations of name, birth date, Social Security number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

Access to areas where these records are maintained is restricted to VA employees, contractors, or subcontractors on a ''need to know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. File areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service or other types of alarm systems.

Access to the VA Austin Automation Center and VA Shared Service Center are restricted to authorized VA employees and authorized representatives of vendors. Access to computer rooms within these facilities is further restricted to especially authorized VA personnel and vendor personnel.

Access to computerized records is limited through the use of access codes and entry logs. Additional protection is provided by electronic locking devices, alarm systems, and guard services.

Electronic data is made available to VA field facilities via VA's Intranet. Strict control measures are enforced to ensure that disclosure is limited to the individual on whom the record is being maintained or on a ''need to know'' basis. Security devices (*e.g.* passwords, firewalls) are used to control access by VA users to Internet services, and to shield VA networks and systems from outside the firewall.

RETENTION AND DISPOSAL:

The Merged Personnel Records Folder (MPRF) is maintained for the period of the employee's service in VA and is then transferred to the National Personnel Records Center (NPRC) for storage, or, as appropriate, to the next employing Federal agency. Other records are either retained at VA for various lengths of time in accordance with the National Archives and Records Administration records schedules or destroyed when they have served their purpose or the employee leaves VA.

a. VA maintains the MPRF as long as VA employs the individual. Within 90 days after the individual separates from VA's employment, the MPRF is sent to the NPRC for long-term storage. The MPRF of a retired employee or an employee who dies in service is sent to the Records Center within 120 days of the retirement or death.

b. Records in this system must be maintained and disposed of in accordance with General Records Schedule 1, and VA Records Control Schedule 10–1, the Office of Personnel Management Guide to Federal Recordkeeping, and the Memorandum of Understanding concerning this subject between VA, the Office of Personnel Management, and the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Human Resources Management (05), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. Federal employees should contact the responsible official (as designated by their agency) regarding records in this system.

b. Former Federal employees should contact the National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, regarding the records in this system. Individuals must furnish the following information so their records can be located and identified: full name(s), date of birth, Social Security number, last employing agency (including duty station, when applicable), and approximate dates of employment. All requests must be signed.

RECORD ACCESS PROCEDURES:

(See Notification Procedure.)

CONTESTING RECORD PROCEDURES:

Current and former VA employees wishing to request amendment of their records should contact the Director, Department of Veterans Affairs Shared Service Center (00), 3401 SW 21st Street, Topeka, Kansas 66604. Individuals must furnish the following information for their records to be located and identified: Full name(s), date of birth, Social Security number, and signature. To facilitate identification of records, former employees must also provide the name of their last Department of Veterans Affairs facility and approximate dates of employment.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual employee, examining physicians, educational institutions, VA officials, and other individuals or entities; *e.g.,* job references and supporting statements; testimony of witnesses; and correspondence from organizations or persons, *e.g.,* licensing boards.

[FR Doc. 00–18287 Filed 7–19–00; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974, New System of Records: Professional Standards Board Action and Proficiency Rating Folder (Title 38)—VA 101VA05

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) is proposing to issue a new system of records entitled Professional Standards Board Action and Proficiency Rating Folder (Title 38)—VA (101VA05). VA is simultaneously altering and reissuing the system of records entitled General Personnel Records (Title 38)—VA (76VA05). The alteration removes information from 76VA05 concerning competency assessments and related documents, proficiency reports, and employee statements regarding proficiency reports given and recommendations based on them. It also removes professional standards board actions and documents associated with those board actions that are not specifically covered under other systems of records. A new system of records is proposed because the purposes for which these records are maintained and used differ from other records currently in 76VA05. For example, the employees covered, the types of records, purpose for the records, legal authority for maintenance of the systems, and routine uses associated with each of these systems of records are different. The physical location of these records may also differ from the records covered by 76VA05.

DATES: Submit comments on or before August 21, 2000.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this system of records to the Director, Office of Regulations Management (02D), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1154, 810 Vermont Avenue, NW., Washington, DC 20420 only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. If no public comment is received during the 30-day review period allowed for public

comment, or unless otherwise published in the **Federal Register** by VA, the reissued system of records is effective August 21, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McVeigh, Department of Veterans Affairs (051A), 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–9821.

SUPPLEMENTARY INFORMATION:

VA issued a system of records entitled General Personnel Records (Title 38)—VA (76VA05) in the **Federal Register** 53 FR 27258 (7/19/88) and amended that system in 55 FR 42534 (10/19/90), 58 FR 40852 (7/30/93) and 61 FR 14853 (4/3/96). This system included all personnel records other than medical records for most Veterans Health Administration employees appointed under Title 38, United States Code.

This system of records would include information removed from 76VA05 concerning proficiency reports, employee statements regarding proficiency reports given and recommendations based on them, and competency assessments and documents associated with those assessments. It also includes professional standards board actions and documents associated with those board actions that are not specifically covered under the system of records entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05).

A new system of records is being proposed because the characteristics of the records in this system differ from those in 76VA05. The employees covered, the types of records, purposes of the systems, legal authority for maintenance of the systems, and routine uses associated with these systems of records are different. The physical location of these records may also differ from the records covered by 76VA05.

Further, 76VA05 had 40 routine uses. Only 26 routine uses were determined to be appropriate for records in this new system. The changes to the routine uses formerly in 76VA05 are as follows:

a. Routine use 1 relating to disclosures to the Office of Personnel Management has been deleted. Such disclosures are only made from the system of records entitled Personnel and Accounting Pay System-VA (27VA047).

b. Routine uses 3 through 7 were deleted. This information would be disclosed from another system of records (76VA05).

c. Routine uses 8 and 9 (now 2 and 3) relating to awards, honors and other types of employee recognition have been modified to more clearly indicate what disclosures are made, to whom the disclosures are made and the purposes of such disclosures.

d. Routine use 10 (now 4) is being modified to clarify the conditions under which data is disclosed to officials of labor organizations recognized under 5 U.S.C., chapter 71. The clarification ties such disclosures to the law authorizing the disclosures, *i.e.,* 5 U.S.C. 7114(b)(4). The former version authorized disclosures to officials of labor organizations ''when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.''

e. Routine use 11 is modified. VA is prohibited from promulgating routine uses that would permit disclosures in response to requests for information for civil or law enforcement purposes or in response to court orders. Such requests must be submitted under the provisions of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable. See *Doe* v. *DiGenova,* 779 F. 2d 74 (D.C. Cir. 1985) and *Doe* v. *Stephens,* 851 F. 2d 1457 (D.C. Cir. 1988), and an August 28, 1989, opinion from the Office of Legal Counsel, Department of Justice. Routine use 11 (now 5) no longer includes such disclosures; however, it has been modified to permit VA to disclose, on its own initiative, relevant information if there is reason to believe that a violation of statute, rule or regulation has occurred.

f. Routine use 14 (now 8) no longer permits disclosures at the request of agencies in the executive, legislative, or judicial branch of the Federal government or to the government of the District of Columbia for investigative purposes. Such requests must be submitted under the provisions of 5 U.S.C. 552a(b)(7). That portion of the routine use has been deleted.

g. Routine use 15 (now 9) has been modified to limit the reason for such disclosures to obtaining accreditation or other approval ratings. It also now permits disclosures to other Federal agencies for this purpose. The former version of this routine use was overly broad.

h. Routine use 18 (now 12) has been modified so that it no longer permits disclosures in response to subpoenas or court orders. Applicable case law (see paragraph e above) prohibits disclosures in response to subpoenas. Court orders directing the production of information must also meet the requirements of 5 U.S.C. 552a(b)(11). The revised routine use would permit VA to disclose relevant information on its own initiative in certain legal proceedings if VA is party to those proceedings and disclosure is necessary to protect its interests.

i. Routine use 19, relating to requests for discovery or for the appearance of witnesses, has been deleted, since it is no longer consistent with applicable case law (see paragraph f above).

j. Routine use 24 related to disclosures to VA-appointed representatives concerning fitness for duty examinations and disability retirement procedures has been deleted. The information is being removed from this system of records and placed in a new system entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05),

k. Routine use 25, concerning disclosures because an individual may have contracted an illness, been exposed to, or suffered from a health hazard while employed by the Federal government, is being deleted. This subject is addressed in 5 U.S.C. 552a(b)(8).

l. Routine uses 26 and 27 have been deleted. These disclosures would be made from another system of records (76VA05).

m. Routine use 29 (now 18), is being changed to delete the language concerning disclosures to the Equal Employment Opportunity Commission to ensure compliance with the Uniform Guidelines on Employee Selection Procedures, since VA has not chosen to adopt the Uniform Guidelines for use in its Title 38 employment procedures.

n. Routine use 30 (now 19) is being clarified to indicate that disclosures to the Federal Labor Relations Authority and Federal Service Impasses Panel may only be made after appropriate jurisdiction has been established. Matters or questions concerning or arising out of (1) professional conduct or competence, (2) peer review, and (3) the establishment, determination or adjustment of compensation shall be decided by the Secretary of Veterans Affairs and is not itself subject to collective bargaining and may not be reviewed by another agency. See 38 U.S.C. 7422.

o. Routine use 31 has been deleted. These disclosures would be made from another system of records.

p. Routine use 32 (now 20) has been modified to permit disclosures to Federal agencies for the purposes outlined in the routine use. For example, such disclosures will be made to the Department of Health and Human Services Exclusionary Database to comply with the requirements of the Balanced Budget Act of 1997, Pub.L. 105–53.

q. Routine use 33 regarding disclosures of information in response to requests from agencies responsible for the issuance, retention, or revocation of

licenses, certification, or registrations required to practice a health care profession has been deleted. Such requests must conform to the requirements of 5 U.S.C. 552a(b)(7).

r. Routine uses 35 and 36 were deleted. Such disclosures would be made from another system of records.

s. Routine use 39 (now 24) concerning disclosures to license monitoring agencies is being modified to exclude language concerning computer matching. Such disclosures are not made from this system of records.

t. Routine use 40 concerning disclosures to a garnishing party was not included in this system of records. Such information would be disclosed from 76VA05.

u. A new routine use (25) permits disclosures to contractors, subcontractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government. However, such disclosures must be in the interest of VA and compatible with the intended purposes for which the record was created.

v. A new routine use (26) permits disclosing information concerning information to the Department of Health and Human Services' Healthcare Integrity and Protection Data Base pursuant to section 221(a), Pub. L. 104–191, and the associated Department of Health and Human Services regulations, 45 CFR part 61.

Notices concerning the alteration of 76VA05 and another related new system of records entitled Agency-Initiated Personnel Actions (Title 38)—VA (102VA05) are being released simultaneously.

Approved: July 6, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

101VA05

SYSTEM NAME:

Professional Standards Board Action and Proficiency Rating Folder (Title 38)—VA.

SYSTEM LOCATION:

Active records are maintained at the Department of Veterans Affairs (VA) Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 and VA field facilities. Inactive records are retired to the National Personnel Records Center, 111 Winnebago Street, St. Louis, MO 63118. When VA determines that all or a portion of these records need to be maintained in a different location, *e.g.,* VA Central Office, such records are covered by this system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees appointed under 38 U.S.C. 7306, 7401(1), 7401(3), and 7405, except students, trainees, medical support personnel, and those appointed on a fee or without compensation basis. This includes employees such as physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, expanded-function dental auxiliaries, certified respiratory therapy technicians, registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, occupational therapists, and pharmacists. This system of records does not cover applicants for positions covered by this system of records. Such individuals are covered by the system of records entitled Applicants for Employment Under Title 38, USC–VA (02VA135). It also does not cover the performance appraisals of Title 38 employees appointed under 38 U.S.C. 7306, facility Directors appointed under 38 U.S.C. 7401(1), or ''hybrid'' title 38 employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B). The performance appraisals of these employees are covered under the Employee Performance File System of Records (OPM/GOVT–2).

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records may include identifying information, such as name, date of birth, Social Security number, service computation date, facility number, current position title, and the employee's current grade, level, and step rate. Records in this system include:

a. Copies of the employee's employment application, curriculum vitae, and transcripts of higher education. The original documents are maintained in the General Personnel Records (Title 38)—VA (76VA05).

b. Board Actions (VA Form 2543) and recommendations/documentation associated with those actions. The Title 38 personnel system utilizes a peer review process for making recommendations concerning appointments, advancements, awards, promotion reconsideration, conversions from one type of Title 38 appointment to another, and other personnel actions. After receiving input from an employee's supervisor, the appropriate Professional Standards Board (the employee's peers) makes recommendations for consideration by appropriate management officials. The recommendations and management action taken are recorded on the VA Form 2543. The VA Form 2543 documenting recommendations and management actions taken because of a probationary review, separation based on pre-employment suitability, or separation based on failure to meet required physical standards are also included in this system of records. However, all supporting documents associated with the actions in the preceding sentence are to be included in the records system 102VA05. This includes notices of proposed action, materials relied on by VA to support the reason(s) for the action, replies by employees, statements of witnesses, hearing notices, and other reports related to these actions.

c. Proficiency reports documenting the proficiency ratings of employees and any comments associated with those proficiency reports.

d. On-going, periodic assessments of an employee's education, experience, and training to ensure they can effectively meet the requirements of their position (*i.e.*, competency assessments and associated documents).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501(a), 7304 and 7406(c)(1).

PURPOSE(S):

This system is a repository for Professional Standards Board recommendations and the information needed to make those recommendations (*e.g.*, employment applications, transcripts of higher education, and proficiency reports). It also contains a record of management actions taken with respect to Professional Standards Board recommendations. The actions taken give legal force and effect to personnel transactions and establish employee rights and benefits under pertinent laws and regulations governing Federal employment. They also provide a basic source of factual data about a person's VA employment. Records in this system assist Professional Standards Boards and others to determine whether a variety of personnel actions are appropriate. They are also used to obtain information needed to provide other personnel services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose information to government training facilities (Federal, State and local) and to non-government training facilities (private vendors of training course or programs, private schools, etc.) for training purposes.

2. To disclose relevant information to third parties considering VA employees for awards or recognition and to

publicize information about such awards or recognition. This may include disclosures to public and private organizations, including news media, which grant or publicize employee awards or honors.

3. To disclose information about incentive awards and other awards or honors granted by VA. This may include disclosure to public and private organizations, including news media, which publicize such recognition.

4. To disclose the information listed in 5 U.S.C. 7114(b)(4) to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

5. VA may, on its own initiative, disclose relevant information to a Federal agency (including Offices of the Inspector General), State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, or regulation if there is reason to believe that a violation may have occurred. This routine use does not authorize disclosures in response to requests for information for civil or criminal law enforcement activity purposes, nor does it authorize disclosure of information in response to court orders. Such requests must meet the requirements of 5 U.S.C. 552a(b)(7) or (b)(11), as applicable.

6. To disclose pertinent information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

7. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purposes(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit.

8. To disclose to an agency in the executive, legislative, or judicial branch, or the District of Columbia's Government in response to its request, or at the initiation of VA, information in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, the issuance of a license, grant or other benefit by the requesting agency, or the lawful statutory or administrative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision.

9. To disclose relevant information to non-Federal agencies (*i.e.,* State or local governments), and private sector organizations, boards, bureaus, or commissions (*e.g.,* the Joint Commission on Accreditation of Healthcare Organizations) when such disclosures are required to obtain accreditation or other approval ratings.

10. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

11. To provide information to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of the individual.

12. VA may, on its own initiative, disclose information to another Federal agency, court, or party in litigation before a court or other administrative proceeding conducted by a Federal agency, if VA is a party to the proceeding and VA needs to disclose such information to protect its interests.

13. To disclose information to the National Archives and Records Administration (NARA) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

14. To disclose to persons engaged in research and survey projects information necessary to locate individuals for personnel research or survey response, and to produce summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the date individually identifiable by inference.

15. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files in support of the functions for which the records were collected and maintained.

16. When an individual to whom records pertain is mentally incompetent or under other legal disability, information in the individual's records may be disclosed to any person or entity responsible for managing the individual finances to the extent necessary to ensure payment of benefits to which the individual is entitled.

17. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

18. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law.

19. To disclose to the Federal Labor Relations Authority (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Services Impasses Panel.

20. Records from this system of records may be disclosed to a Federal, State, or local government agency or licensing board and/or to the Federation of State Medical Boards or a similar non-government entity. These entities maintain records concerning individuals' employment or practice histories or concerning the issuance, retention, or revocation of licenses or registration necessary to practice an occupation, profession, or specialty. Disclosures would be made for the Agency to obtain information determined relevant to an Agency decision concerning the hiring, retention, or termination of an employee. Disclosures may also be made to inform licensing boards or the appropriate non-governmental entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional practice as to raise reasonable concern for the health and safety of patients.

21. To disclose relevant information to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States and to Federal agencies upon their request in connection with review of administrative tort claims

filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

22. To disclose relevant and necessary hiring, performance, or other personnel-related information to any facility with which there is, or there is proposed to be, an affiliation, sharing agreement, contract, or similar arrangement, for purposes of establishing, maintaining, or expanding any such relationship.

23. Identifying information in this system, including name, Social Security number, and other information as is reasonably necessary to identify such an individual, may be disclosed to the National Practitioner Data Bank (NPDB) at the time of hiring and/or clinical privileging/reprivileging of health care practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/reprivileging, retention, or termination of the applicant or employee.

24. Relevant information from this system of records may be disclosed to the NPDB or to a State or local government licensing board which maintains records concerning the issuance, retention, or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession, or specialty when under the following circumstances, through peer review process that is undertaken pursuant to VA policy, negligence, professional incompetence, responsibility for improper care, and/or professional misconduct has been assigned to a physician or licensed or certified health care practitioner: (1) On any payment in settlement of (or partial settlement of, or in satisfaction of) a judgement in a medical malpractice action or claim; or, (2) on any final decision that adversely affects the clinical privileges of a physician or practitioner for a period of more than 30 days.

25. To disclose information to contractors, subcontractors, grantees, or others performing or working on a contract, grant, or cooperative agreement for the Federal government, provided disclosure is in the interest of the Government and the information to be disclosed is relevant and necessary for accomplishing the intended uses of the information and necessary to perform services under the contract, grant, or cooperative agreement.

26. Information from this system of records will be disclosed to the Healthcare Integrity and Protection Data Base as required by section 1122E of the Social Security Act (as added by Sec. 221(a) of Pub. L. 104–191) and the associated implementing regulations issued by the Department of Health and Human Services, 45 CFR Part 61. For example, VA is required to report adjudicated adverse personnel actions based on acts or omissions that either affected or could have affected the delivery of health care services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records may be maintained in file folders, on lists and forms, on microfilm or microfiche, and in computer processable storage media.

RETRIEVABILITY:

These records may be retrieved using various combinations of name, birth date, Social Security number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

Access to areas where these records are maintained is restricted to VA employees, contractors, or subcontractors on a ''need to know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. File areas are locked after normal duty hours and are protected from outside access by VA police officers or other types of alarm systems.

RETENTION AND DISPOSAL:

The Professional Standards Board Action and Proficiency Rating Folder is maintained for the period of the employee's service in VA and is then transferred with the Merged Records Personnel Folder to the National Personnel Records Center (NPRC) for storage, or, as appropriate, to the next employing Federal agency.

a. VA maintains the Professional Standards Board Action and Proficiency Rating Folder as long as VA employs the individual. Within 90 days after the individual separates from Federal employment, the record is sent with the Merged Records Personnel Folder to the NPRC for long-term storage. The records of retired employees or employees who die in service are sent to the Records Center within 120 days of the retirement or death.

b. Records in this system must be maintained and disposed of in accordance with General Records Schedule 1, VA Records Control Schedule 10–1, the Office of Personnel Management Guide to Federal Recordkeeping, and the Memorandum of Understanding concerning this subject between VA, the Office of Personnel Management, and National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Human Resources Management (05), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. Non-VA Federal employees should contact the responsible office (as designated by their agency) regarding records in this system. VA employees should contact the office responsible for human resources management at their installation.

b. Former Federal employees should contact the National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, Missouri 63118, regarding the records in this system. Individuals must furnish the following information so their records may be located and identified: full name(s), date of birth, Social Security number, last employing agency (including duty station), approximate dates of employment, and signature.

RECORD ACCESS PROCEDURES:

(See Notification Procedure).

CONTESTING RECORD PROCEDURES:

Current employees wishing to request amendment of their records should contact the office responsible for human resources management at their current installation. Former employees should contact the Deputy Assistant Secretary for Human Resources Management. (See System Manager and Address.) Individuals must furnish the following information for their records to be located and identified: Full name(s); date of birth; Social Security number; and signature. To facilitate identification of records, former employees must also provide the name of their last Department of Veterans Affairs facility and approximate dates of employment.

RECORD SOURCE CATEGORIES:

Employees, supervisors, managers, members of Professional Standards Boards, and other VA officials provide the information in this system of records. Individuals or other entities outside of VA may also provide relevant and necessary information. For example, organizations where the subject previously worked may provide information.

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Corrections

Federal Register

Vol. 65, No. 140

Thursday, July 20, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–00–1430–EQ; AZA 25117]

Arizona: Expiration of Segregative Effect, and Opening Order for Proposed Airport Lease AZA 25117, Arizona

Correction

In notice document 00–14715 in the issue of Monday, June 12, 2000, appearing on page 36840, make the following corrections:

1. In the second column, in the heading, the docket line should appear as set forth above.

2. In the same column, in the second paragraph under the **SUMMARY** heading, in the line beginning ''within lot 4'', ''SE½'' should read ''S½''.

3. In the third column, in the Dated heading, ''June 6, 2000 '' should read ''June 2, 2000 ''.

[FR Doc. C0–14715 Filed 7–19–00; 8:45 am]

BILLING CODE 1505–01–D

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Help Supply Services

Correction

In rule document 00–14015 beginning on page 35810, in the issue of Tuesday, June 6, 2000, make the following correction:

§ 121.201 [Corrected]

On page 35812, in the third column, in § 121.201, in amendatory instruction 3., in the fourth line, ''SEC'' should read ''SIC''.

[FR Doc. C0–14015 Filed 7–19–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
July 20, 2000

Part II

Department of Transportation

Maritime Administration

46 CFR Part 298

Putting Customers First in the Title XI Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket No. MARAD–98–3468]

RIN 2133–AB32

Putting Customers First in the Title XI Program

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is issuing this final rule which amends certain provisions of the existing regulations implementing Title XI of the Merchant Marine Act, 1936, as amended (''Act''). This rule amends existing regulations by simplifying existing administrative practices governing the following areas: the ship financing guarantee process; and standards for evaluation and approval of applications. These changes will make the entire process easier for applicants.

EFFECTIVE DATE: This final rule is effective on August 21, 2000.

FOR FURTHER INFORMATION CONTACT: Linda W. Reaves, Financial Analyst, Office of Ship Financing, Maritime Administration, Room 8122, 400 Seventh Street SW., Washington, DC 20590. Telephone 202 366–1899.

SUPPLEMENTARY INFORMATION: Title XI of the Act authorizes the Secretary of Transportation (Secretary) to guarantee debt issued for the purpose of financing or refinancing: (a) the construction, reconstruction, or reconditioning of U.S.-flag vessels or eligible export vessels built in United States shipyards, and (b) the construction of advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility located in the United States. MARAD administers financial assistance under Title XI of the Act in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. The part of the Title XI program related to fishing vessels is administered by the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce, (''NOAA''), pursuant to NOAA regulations, which appear at 50 CFR part 253. The Title XI program enables applicants to obtain long-term financing on terms and conditions that may not otherwise be available. Applications for obligation guarantees are made to the Maritime Administration (we, us, or our), acting under authority delegated by the Secretary, to the Maritime Administrator. Once an applicant submits a Title XI application to us and prior to execution of a guarantee, we must, among other things, make determinations of economic soundness of the project, and the applicant's financial and operating capability.

National Performance Review

In response to a 1993 recommendation from Vice President Gore's National Performance Review team, President Clinton issued Executive Order 12862, September 11, 1993, calling for a revolution within the Federal government to change the way it does business by putting customers first and striving for a customer-driven government that matches or exceeds the best service available in the private sector. In October 1997, the National Performance Review team reported that Federal agencies, implementing the Executive Order, had launched a massive effort to improve governmental service and had made a noticeable difference.

On December 1, 1997, in a memorandum to heads of Operating Administrations and Departmental offices at the United States Department of Transportation, Secretary of Transportation Rodney E. Slater urged all Departmental offices and heads of Operating Administrations to ask their customers what is important to them in the kinds and quality of services they want and what is their level of satisfaction with existing services. Secretary Slater emphasized that it is ''this customer feedback that will be the basis for improving, revising, adding, or deleting standards when it makes sense and, ultimately, for helping us become a more customer focused DOT.''

Plain Language

Executive Order 12866 and the President's memorandum on plain language in government writing of June 1, 1998, require each agency to write all rules in plain language. The Department of Transportation and MARAD are committed to plain language in government writing; therefore, this final rule is written in plain language. This final rule is written in plain language for easier understanding and does not change the substance of the proposed rule published at 64 FR 44152 (August 13, 1999), except as explained in the Discussion of Public Comments and the Rulemaking Text Section. Our goal is to improve the clarity of the regulation.

Advance Notice of Proposed Rulemaking

An advance notice of proposed rulemaking (ANPRM), published on February 17, 1998 (63 FR 7744), solicited comments on ten sets of questions which were grouped into the following categories:

—The standard application Form MA–163, including the requirement for vessel plans and specifications.
—The requirements for information on the applicant's and/or operator's qualifications.
—The requirements for financial information and certain financial tests.
—The requirements for information on economic soundness and the economic soundness criteria.
—The inclusion in the Title XI regulations of the provisions of Maritime Administrative Order (MAO) No. 520–1, Amendment 2.
—The documentation requirements for a closing on a commitment to guarantee obligations.

Our consideration of comments received in response to the categories above concerning the application form and closing documents were published separately in a **Federal Register** Notice dated July 30, 1998 (63 FR 40690). The other comments received from nine commenters on the ANPRM were reviewed and taken into consideration in preparation of a notice of proposed rulemaking discussed below. These comments, in general, dealt with applicant and operator qualifications, financial requirements, and economic soundness.

Notice of Proposed Rulemaking

In response to customer feedback on the ANPRM, we published a notice of proposed rulemaking (NPRM) on August 13, 1999, in the **Federal Register** (64 FR 44152). The NPRM reflected all comments received in response to the ANPRM. MARAD is now issuing this final rule concerning Title XI program administration which reflects consideration of all comments received in response to the NPRM.

Discussion of Public Comments and Rulemaking Text

The discussion that follows summarizes the comments submitted to MARAD by six commenters on the NPRM, states why particular recommendations/suggestions have or have not been adopted and the rationale therefore. Note that where the first letter of one or more words is capitalized, that term is defined in § 298.2 Definitions. The discussion also notes where

proposed changes have been adopted to the Title XI regulations and the rationale therefore, and where relevant, states why particular recommendations/suggestions have not been adopted. Additionally, we have made clarifications throughout 46 CFR Part 298 for easier understanding and to more fully express implications. Such clarifications do not change the substance of the regulations. We have rewritten the entire part 298 in plain language. The following sections have only plain language and no substantive changes from the existing part 298: §§ 298.10 Citizenship; 298.17 Evaluation of applications; 298.26 Lease Payments; 298.27 Advances; 298.37 Examination and audit; 298.39 Exemptions; 298.40 Defaults; and 298.42 Reporting Requirements-financial statements.

We have adopted the following changes to Obligation Guarantees regulations at 46 CFR Part 298. The amendments are summarized as follows:

Section 298.1 Purpose

This section has been modified to advise that ''you'' and ''we'' have been used throughout in writing this part in plain language. You and your refer to the applicant for Title XI assistance unless we note or imply otherwise. We, us, and our refer to the Maritime Administration, the Secretary of the Maritime Administration, or the Secretary of Transportation.

Section 298.2 Definitions

Section 298.2 is intended to provide convenient reference to the meaning of significant terminology used in part 298. The definitions, as follows, are based principally on statutory derivations:

''Advanced Shipbuilding Technology'' is changed in order to include other modernization elements which are not previously listed in the definition and which contribute to a shipyard's efficiency or productivity.

''Guarantee Fee'' is changed to delete the reference to an annual fee and continuing Guarantees. In accordance with the Act, the regulations now require that the guarantee fee for the entire term of the financing be paid in advance at the initial funding of the transaction, with no refund in the event the Obligations are retired early.

''Indenture Trustee'' is changed to increase the amount of combined capital and surplus an indenture trustee must have to at least $25,000,000 as the current amount of $3,000,000 is not adequate.

''Shipyard Project'' is a defined term added to this section which was not previously proposed in the NPRM. Shipyard Project refers to either Advanced Shipbuilding Technology or Modern Shipbuilding Technology.

Section 298.3 Applications

In § 298.3 of the NPRM, we proposed to modify certain provisions to reflect current practices and procedures and to clarify certain provisions. Additionally, we proposed to delete the priority given to applications from general shipyard facilities formerly in 298.3(e) that have engaged in naval vessel construction and that have pilot projects for shipyard modernization and vessel construction because all the funds previously appropriated to the Department of Defense and transferred to the Department of Transportation for the Title XI program have been expended.

One commenter recommended that MARAD not eliminate the provision that gives priority for processing applications from General Shipyard Facilities that have engaged in naval vessel construction. The commenter stated that Congress adopted this element when it enacted the National Shipyard Initiative in recognition of the need to sustain the defense shipbuilding industrial base and the basis for the priority and the procedure are just as valid today as they were when Congress enacted the National Shipbuilding Initiative. Additionally, the commenter stated that the mere fact that all existing funds that the Department of Defense (DOD) transferred to MARAD has been expended does not justify the elimination of the procedure.

MARAD Response: We believe that the President's plan for the National Shipbuilding Initiative (NSI) is to assist the shipbuilding industry to compete internationally. The NSI was also planned as a transitional program structured to assist in the transition from naval to commercial markets. The NSI regulations provide that in making loan guarantee commitments using funds provided under the NSI, priority shall be given to applications from shipyards that have engaged in naval vessel construction. This provision does not apply to other funds appropriated to the Title XI program. Funds appropriated for the NSI from DOD for this transitional period did not extend beyond 1998, and all such funds have been expended.

Therefore, this priority provision has no application. MARAD's elimination of priority given to applications from shipyards that have engaged in naval vessel construction is consistent with the plans of the NSI to facilitate the transition period, permitting funds appropriated to expire in five years, and therefore not intended as an ongoing priority. Because Title XI financing continues to be available for shipyard modernization and export vessels, Title XI assistance to the shipbuilding industry to compete internationally continues. If Congress elects to appropriate additional funds or DOD transfers funds, if required, a priority processing procedure could be reimplemented without an inordinate undertaking by us. Therefore, we have adopted our proposal to eliminate the priority provision to General Shipyard Facilities of this section.

We have adopted, as proposed in the NPRM, under this section a change to reflect that only two sets of documentation must be submitted to us for review.

This section is also changed to delete the provision that, if an applicant does not claim a Freedom of Information Act (FOIA) exemption at the time an application or amendment is filed, we will not oppose any subsequent request for disclosure pursuant to FOIA. Deletion of this provision reflects actual agency practice, which is to allow a request for exemption under FOIA at any time.

Also, this section is changed to clarify that priority will be given for processing applications for vessels capable of serving as United States naval and military auxiliary in time of war or national emergency.

Finally, this section was modified to change the word ''financing'' to ''refinancing'' to clarify the provision that states that we will give priority processing for applications that request financing construction of equipment or vessels less than one year old as opposed to the ''refinancing'' of existing equipment or vessels that are one year old or older.

Section 298.11 Vessel Requirements

Under § 298.11 of the NPRM, we proposed to: (1) Clarify that the vessel must be constructed in the United States; (2) provide that we may contact the shipyard to request that it submit additional technical data, backup cost details, and other evidence if we have insufficient data; (3) delete the last sentence of paragraph (c) which is redundant with the last sentence of paragraph (a) of this section, and (4) conform the regulations to our present practices which permit a U.S.-flag constructed vessel to meet the highest classification standard of the American Bureau of Shipping or of a classification society other than the American Bureau of Shipping so long as the society meets the inspection standards of the United States Coast Guard.

In response to the NPRM, one commenter requested that MARAD not modify the provision of paragraph (c) of § 298.11 to conform to MARAD's present practice which permit a U.S.-flag constructed vessel to meet the highest classification standard of the American Bureau of Shipping or of a classification society other than the American Bureau of Shipping (ABS) so long as the society meets the inspection standards of the United States Coast Guard. The commenter stated that statute and the Title XI regulations require A–1, ABS classification and that these provisions refer to another standard, not another society.

MARAD Response: We disagree with the commenter's interpretation that the existing provision provides that ABS is the only acceptable classification society for U.S.-flag vessels. We had previously made a review of this provision and based on the results of our review interpreted the provision to permit a U.S.-flag constructed vessel to meet the highest classification standard of a classification society other than the ABS so long as the society meets the inspection standards of the United States Coast Guard. Hence, we adopted the practice of permitting other classification societies. We have considered the commenter's position; yet, we affirm our position to permit other classification societies. Because the phrase ''or other such standards as may be approved by the United States Coast Guard'' does not specify ''ABS'' standards, we do not believe another society is precluded. Therefore, as proposed in the NPRM, the regulations are being modified to clearly permit a U.S.-flag constructed vessel to meet the highest classification standard of a classification society of ABS or other classification society so long as the society meets the inspection standards of the United States Coast Guard.

Section 298.11 is changed, as proposed in the NPRM, to clarify that the vessel must be constructed in the United States. This section is also revised to provide that we may contact the shipyard to request that it submit additional technical data, backup cost details, and other evidence if we have insufficient data.

Additionally, this section is changed to clarify that all Vessels other than Eligible Export Vessels must be documented under U.S. registry.

Section 298.12 Applicant and Operator's Qualifications

We concur with comments that too much information is requested in this section, particularly with respect to the applicant's existing vessels, and certain background data. Therefore, this section has been modified to reduce the information required. With respect to the suggestion that we utilize the endorsement of industry associations, the regulations do not preclude our consideration of such an endorsement when evaluating the applicant's and/or operator's qualifications.

A paragraph is added to this section to reflect the MAO 520–1 provision requiring that an operator's historical performance record be considered in evaluating operating ability.

Section 298.13 Financial Requirements

In the NPRM, we did not propose any changes to this section, as suggested by a commenter to the ANPRM, to eliminate the requirement for a waiver in order for foreign items to be included in Actual Cost. Our interest is in promoting a shipbuilding industry including both shipyards and suppliers. Therefore, it would be inappropriate to permit wholesale use of foreign items in Title XI financings when comparable items are available from U.S. suppliers. We believe such a practice would have an adverse impact on the U.S. shipbuilding industry as a whole. However, request for waivers to include foreign items have not been unreasonably withheld, so that the no-foreign content requirement without a waiver has not had a negative impact on the shipyards or shipowners. Therefore, we will continue to review inclusion of foreign items on a case-by-case basis. A correction was made in this section to state that in deciding whether to grant a waiver for foreign components and services you must submit a certification that the ''domestic'' item is not of sufficient quality. The existing regulations inadvertently refer to the ''foreign'' item.

We believe that the current inclusion of the illustration in this section of how the cost of foreign components of the hull and superstructure may be used to satisfy an applicant's equity requirements is unnecessary and confusing. Therefore, we are deleting the illustration and the one sentence which refers to the illustration in existing § 298.13(a)(2)(i).

The reference to guarantee fees in existing paragraph (a)(2)(iv) is deleted as guarantee fees are eligible for inclusion in Actual Cost.

We have adopted our proposal to permit, in the case of Eligible Export Vessels, financial statements that are not reconciled to U.S. generally accepted accounting principles (GAAP) if a satisfactory justification is provided concerning the inability to reconcile. We further adopted the proposed change to eliminate the requirement for a debt amortization schedule and sources and uses statement, and to incorporate current financial definitions.

We have adopted the proposal to eliminate the special financial requirements set forth in this section due to the restrictive nature of the covenants that accompany these requirements and the fact that companies have not elected this alternative in the recent past. In order to make clear that there is only one set of financial requirements, the word ''primary'' before financial requirements is deleted here and later in the regulation under § 298.35.

Section 298.14 Economic Soundness

Under § 298.14 of the NPRM, we proposed to reduce or eliminate information required under this section. We proposed to add a new paragraph which differentiates between applications for vessel financing and shipyard modernization projects.

We proposed to clarify the criteria used for economic soundness finding by including provisions of MAO 520–1 relating to economic soundness.

We also proposed requirements concerning the ability of the project to service its debt at the time of delivery which will be based on market conditions at that time, and that primary consideration shall be given to operating cash flow.

One commenter stated that the requirement for a detailed breakdown of estimated daily operating expenses needs to be clarified and that it would be inappropriate to require a detailed breakdown of individual salaries and wages as this would be unduly cumbersome and cover proprietary information that would need to be protected from Freedom of Information Act (FOIA) requests. The commenter further stated that all that should be required is an aggregate cost of salary for the shipyard.

MARAD Response: The daily operating expense information requested for a Title XI application is information that is necessary for us to make an assessment of cash flow for the project. The application does not request individual wages and salaries but an item of expense for wages. With respect to disclosure of proprietary information, the applicant can assert a claim of exemption from disclosure under a FOIA request of any proprietary information submitted in connection with the company's application. We do not believe that providing a breakdown of estimated daily operating expenses

would be unduly cumbersome as this type of information is typically prepared for the company's own projections in the initial planning stages of its proposed project. Therefore, we have not eliminated the requirement to provide us with a detailed breakdown of daily operating expenses.

We have adopted the NPRM's proposed changes to § 298.14. We recognize that much of the information requested under § 298.14 was developed for applications from companies involved in a liner service. We have taken steps to simplify the regulations by reducing or eliminating requested information. Specifically, certain paragraphs under this section requesting information on expenses, have been deleted and are replaced by a new paragraph which will encompass all expenses. The new paragraph differentiates between applications for vessel financing and shipyard modernization projects.

We have not added a requirement to the economic soundness section concerning the applicant's financial strength because the existing requirements of § 298.13, Financial Requirements, already require us to make certain determinations concerning the financial position of the ultimate transaction credit.

In order to clarify the criteria used for economic soundness findings, we adopted the NPRM's proposal to include in this section the provisions of MAR 520–1 relating to economic soundness. Specifically, we have modified this section to include requirements concerning the ability to service debt at the time of delivery which will be based on market conditions at that time, and that primary consideration shall be given to operating cash flow. To enable us to analyze cash flow, the applicant is requested to provide a five-year forecast of operating cash flow.

Section 298.15 Investigation Fee

As proposed in the NPRM, this section is revised by correcting the reference to the filing fee to $5,000.

Section 298.16 Substitution of Participants

As proposed, this section is revised to delete the last sentence which references an annual guarantee fee.

Section 298.18 Financing Shipyard Projects

Under § 298.18, we proposed to eliminate from the initial criteria for Guarantee approval, consideration of whether Guarantees will aid in the transition of a shipyard from naval to commercial shipbuilding.

One commenter stated that the proposed elimination of the weighted consideration given for transitioning from naval to commercial shipbuilding is totally inconsistent with the goals of the National Shipbuilding Initiative and is inconsistent with the emphasis that DOD and the Navy have placed on major shipbuilders to transition back to commercial shipbuilding.

MARAD Response: We proposed to eliminate one of the factors in considering Guarantees for financing Advanced or Modern Shipbuilding Technology. We disagree with the commenter that our proposal to eliminate the initial criteria to financing Advanced or Modern Shipbuilding Technology projects to aid in transitioning from naval to commercial shipbuilding is inconsistent with the goals of the National Shipbuilding Initiative (NSI). It is our position that promoting the growth and modernization of the U.S. merchant marine and U.S. shipyards in general also assists in sustaining the defense shipbuilding base as the workforce and facilities for defense and commercial shipbuilding are to some extent interchangeable. Therefore, we do not believe that elimination of the initial criteria provision of whether the Guarantee will aid in the transition from naval shipbuilding to commercial ship construction would have an adverse effect on the defense shipbuilding base. Therefore, as proposed, we are eliminating the provision in our regulations requiring applications for Advanced or Modern Shipbuilding Technology projects to aid in transitioning from naval to commercial shipbuilding.

Section 298.19 Financing Eligible Export Vessels

We have made a conforming change not previously proposed under this section to eliminate the entire paragraph referencing use of funds transferred form DOD to the Title XI program. As discussed under § 298.3, funds transferred from DOD to the Title XI program have been expended and therefore regulations regarding such funds have no application.

We have adopted, as proposed, under this section to make a modification by deleting the reference to the Export-Import Bank of the United States to now refer to the Inter-agency Country Risk Assessment System since the Export-Import Bank's risk assessments are reflected in the Inter-agency Country Risk Assessment System.

Section 298.20 Term, Redemptions and Interest Rate

We have adopted, as proposed, under this section, to clarify that for multiple vessels the maturity date of the Guarantees may be less than but in no event more than twenty-five years from the date of delivery from the shipyard of the last of multiple vessels but that the amount of the Guarantees shall relate to the depreciated actual cost of the multiple vessels as of the date of the Closing.

Section 298.21 Limits

We have adopted, as proposed, under this section, to specify that no foreign, federal, state or local taxes, user fees, or other governmental charges shall be included in Actual Cost. Additionally, we have changed the reference to the Federal Ship Financing Account to the Credit Reform Financing Account to reflect the current account title for deposits held by us with respect to moneys received in connection with construction contracts.

Section 298.22 Amortization of Obligations

We have adopted, as proposed, to replace the parenthetical phrase ''straight line basis'' with the phrase ''level principal'' to reflect our current terminology. Additionally, other references to ''straight line basis'' in this section have been changed to ''level principal''. Reference to ''level debt'' amortization in this section have been changed to ''level payment'' to reflect current finance terminology.

Section 298.23 Refinancing

We have adopted, as proposed, under this section to clarify our position regarding the refinancing of debt on Advanced or Modern Shipbuilding Technology. Refinancing of non-Title XI debt on Advanced or Modern Shipbuilding Technology is not permitted. Additionally, we have eliminated the reference to ''mortgage insurance'' or ''contracts of insurance'' in this section and throughout this part, including § 298.43 as we no longer issue mortgage insurance and all loans financed with mortgage insurance have expired.

Section 298.24 Financing a Vessel More Than a Year After Delivery

We proposed to delete § 298.24 because we believed there is no current authority for us to finance facilities and equipment related to marine operations.

Two commenters objected to the proposed deletion of § 298.24. The commenters believed that deletion of this section is not warranted and our

reasoning is an incorrect statement of our authority.

MARAD Response: We have reconsidered our proposal to delete § 298.24 and have determined that we may finance facilities and equipment related to marine operations under limited circumstances. Based on our interpretation of the Act, we have revised this section to clarify the provisions for issuing Guarantees to finance older vessels and using Title XI debt proceeds to finance vessels or facilities and equipment related to marine operations.

Section 298.30 Nature and Content of Obligations

We have adopted, as proposed, under this section, to clarify that an indenture trustee is not required under our documents.

Section 298.31 Mortgage

We have adopted, as proposed, to correct that, except for Eligible Export Vessels, a mortgage must be filed with the United States Coast Guard's National Vessel Documentation Center. The existing regulations require, except for Eligible Export Vessels, that the mortgage be filed with the United States Coast Guard at the Vessel's port of record.

Section 298.32 Required Provisions in Documentation

Proposed § 298.32 regarding the furnishing of insurance and a performance bond remain unchanged. Under the current Title XI regulations, the Secretary may waive or modify the performance bond requirement, upon determining that the shipyard or manufacturer of Advanced or Modern Shipbuilding Technology has sufficient financial resources and operational capacity to complete the project. In instances where sufficient resources cannot be demonstrated, our interests as a guarantor must be fully protected. Furthermore, inasmuch as § 298.21 provides for performance bond premiums to be included as an item of Actual Cost and therefore financeable up to a maximum of 87½ percent, we find that the bonding requirement does not constitute an inordinate out of pocket expense.

We have adopted as proposed to modify § 298.32 to delete the word ''annual'' in this section in reference to citizenship filing requirements. The citizenship requirements for the Title XI program were modified by a final rule which was published in the **Federal Register** and became effective on September 8, 1997, which no longer required the filing of annual citizenship affidavits for the Title XI Obligors. Additionally, we have clarified that with respect to Shipyard Projects, the contract must contain provisions for making periodic payments for the work in accordance with an agreed schedule, submitted by the ''contractor''. The existing regulations only make reference to a ''shipyard'' containing this provision in its contract for construction of a vessel.

Section 298.33 Escrow Fund

We have adopted, as proposed, to modify this section to conform to the documentation in the general provisions of the new security agreement.

Section 298.34 Construction Fund

Under § 298.34, we proposed to clarify the requirements regarding the construction fund and to eliminate the current redundancies of this section regarding withdrawals and deposits, the procedure for which is described in § 298.33.

One commenter believes that we should eliminate the requirement for a construction fund and disburse to the Obligor the bond proceeds applicable to cost already paid equaling 87.5% or 75%, as applicable. Basically, the commenter stated that there is no statutory authority for the construction fund set out in the proposed § 298.34 and that in Section 1108 of the Merchant Marine Act, 1936, (the Act) Congress intended for all payments for eligible costs to be shared 12.5% or 25% by the Obligor through payment of equity and 87.5% or 75% out of the Title XI guaranteed bond proceeds. The commenter further stated that MARAD has consistently misinterpreted Section 1108 of the Act and required payment by the Obligor of 12.5% or 25% of the entire cost of the project up front before any payment out of the bond proceeds thereby increasing the cost of the project to the Obligor because the cost of equity is indisputably greater than the cost of debt. The commenter stated that because this interpretation does not comport with the Act, MARAD had to create a device called the Construction Fund in order to deposit bond proceeds that could not be deposited in the escrow fund due to the explicit language of Section 1108 but also could not be paid to the shipbuilder or to reimburse the Obligor because of MARAD's incorrect requirement for payment of 12.5% or 25% of the entire cost of the project prior to any disbursement of the escrow fund.

MARAD Response: We disagree with the commenter's assertion that we have no statutory authority for creation of the Construction Fund. Section 1104A(c)(1) of the Act provides that ''The security for the guarantee of an obligation by the Secretary under this title may relate to more than one vessel and may consist of any combination of types of security.'' Section 1103(c) of the Act requires the Obligor to provide 12.5% or 25% equity in the project. It is entirely consistent with the statutory requirement that the applicant have all of its equity raised before the issuance of a commitment to guarantee. To provide us with the assurance that this equity is available for the project and not diminished, we require that the Obligor expend its 12.5% or 25% on the project before our collateral is at risk. This is analogous to a downpayment requirement when purchasing a significant asset. In addition, with the applicant funding the equity up front, the applicant has the greatest incentive to make the project a financial success.

The commenter also indicated that our funding requirements result in a higher cost to the applicant as the cost of equity is greater than the cost of debt. If we were to adopt the funding mechanism proposed by the commenter, we would require that any unused equity funds be placed in non-risk type of investment similar to those utilized by the Escrow and Construction Funds. In this case the earnings on the equity would approximate the earnings on the debt and therefore there would not be a greater cost by utilizing the full amount of the equity funds before utilizing the Title XI proceeds. We believe that requiring the Obligor to provide the initial expenditures for the project is in the Government's best interest and the Construction Fund accomplishes this goal.

We believe that it is in the best interest of the Government to require the initial expenditures for the project to be provided by the Obligor and therefore would need a mechanism such as the Construction Fund to accomplish this goal. Therefore, we are not accepting the commenters proposal to eliminate the Construction Fund.

Section 298.35 Title XI Reserve Fund and Financial Agreement and Financial Agreement

We proposed to modify § 298.35 entirely. We proposed to delete the provision regarding financial covenants for companies meeting the special financial requirements because this provision had not been elected by applicants in the recent past. The references to an applicant being governed by either the section 12 or section 13 requirements are deleted and all companies will be subject to the same two sets of covenants. The first set

of covenants, the primary covenants, is to apply to all companies regardless of their financial condition and the second set of covenants, referred to as supplemental covenants, is to apply to only those companies that do not meet the specific financial conditions.

One commenter stated that the covenant regarding restriction on mergers or sales (a primary covenant) is unduly restrictive and needs to be clarified to ensure that we do not consent only when the integrity of a loan would be jeopardized by the sale or merger.

MARAD Response: The Title XI Reserve Fund and Financial Agreement requires our consent prior to the Obligor entering into a merger or sale. The purpose of requiring our consent prior to a merger or sale is to allow us the opportunity to do a due diligence review of the transaction to determine whether or not the transaction would have an adverse effect or impose unacceptable risk to the Government. To accomplish this review, each merger or sale must be analyzed on a case-by-case basis prior to effectuating the transaction. Therefore, we believe that our review and prior consent are warranted, and we have not modified this provision.

One commenter provided comments on a proposed provision of the Title XI Reserve Fund and Financial Agreement dealing with the restriction the Agreement places on the Obligor with respect to payment of dividends. The commenter believes that the dividend restrictions are excessively restrictive to well capitalized Sub-Chapter S corporations or Limited Liability Companies (LLCs) who qualify as ''strong'' companies (positive working capital and debt to equity ratio less than 2 to 1), whose tax liabilities flow through to their owners and thus may require ''tax dividends'' to those owners to reimburse them for payment of said liabilities.

MARAD Response: The purpose of the dividend restriction is to provide further assurance that funds are available for payment of principal and interest due on the Obligations. We recognize the unique tax situation of sub-chapter S corporations and LLCs and, when we deem appropriate, we consent to dividend payments for tax purposes. We do not believe an amendment to the dividend provision is necessary as special provisions are negotiated in the Title XI Reserve Fund and Financial Agreement to address these situations on a case-by-case basis. Therefore, we have not modified this section to reduce the restrictions with respect to the payment of dividends.

Additionally, we have adopted, as proposed, to modify this section in its entirety. The section regarding financial covenants for companies meeting the special financial requirements has been deleted in its entirety pursuant to the discussion above in § 298.13. The references to a Title XI company being governed by either section 12 or section 13 company are deleted and all Title XI companies will be subject to the same two sets of covenants. One set of covenants will be imposed regardless of the company's financial conditions (primary covenants) and the second set of covenants will only apply if the company does not meet the specific financial conditions (supplemental covenants). Also, we have deleted the paragraph in the existing regulations referring to dividend restrictions applicable to companies who are parties to an operating-differential subsidy contract because we no longer issue operating-differential subsidy contracts and have no plans to resume.

Section 298.36 Guarantee Fee

We have adopted, as proposed, to delete the word ''annual'' in describing the Guarantee fee. The Guarantee is no longer required annually but is now a one-time fee due upon issuance of our guarantee. In the NPRM we inadvertently proposed to delete in paragraph (e) of this section, the provision stating that the Guarantee fee is non-refundable. Section 1104 A(e)(4) of the Act provides that the Guarantee fee is not refundable. Accordingly, we have included a statement the Guarantee fee is non-refundable.

We proposed to include in this section, a statement that ''In calculating the present value used in determining the amount of the Guarantee Fee to be paid, MARAD will use a discount rate based on information contained in the ''Department of Commerce's Economic Bulletin Board annual rates''. In order to reflect the current source for the discount rate, we have changed this statement to provide that ''In calculating the present value used in determining the amount of the Guarantee Fee to be paid, we will use a discount rate based on information contained in the ''President's annual Budget''.

Section 298.41 Remedies After Default

We have adopted, as proposed, to delete that Security proceeds to us will be applied to guarantee fees as there will be no guarantee fees due because all guarantee fees are now paid concurrently with the issuance of Obligations.

Section 298.43 Applicability of the Regulations

We have deleted the reference to ''contracts of insurance'' and ''mortgage contracts'' because we no longer issue ''contracts of insurance'' or ''mortgage contracts'' and all such loans previously insured have expired.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have reviewed this final rule under Executive Order 12866 and have determined that it is not a significant regulatory action under section 3(f). It is also not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Due to the limited economic impact of this final rule, no further analysis is necessary. These amendments are intended only to simplify and clarify the procedural requirements for obtaining Guarantees, principally to expedite the process for our review of applications. The intended effect is to encourage the construction of ships in U.S. shipyards both for the domestic and the Eligible Export Vessel programs and the modernization and improvement of U.S. general shipyard facilities by improving Title XI program administration.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires MARAD to determine whether this final rule will have a significant economic impact on a substantial number of small entities. Although a substantial number of Title XI applicants may meet the United States Small Business Administration's criteria for small entity, these amendments to part 298 simplify and clarify the procedural requirements for obtaining loan Guarantees under the Title XI ship financing program. These simplifications and clarifications will merely expedite our application review process. While the simplified procedures will enhance customer service, these procedures will not result in a significant economic impact. Therefore, we certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132

We have analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The

regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials was not necessary.

Executive Order 13084

We do not believe the revised regulations evolving from this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Therefore, the funding and consultation requirements of this Executive Order would not apply.

Paperwork Reduction Act

This rulemaking contains requirements that have been approved previously by the Office of Management and Budget (Approval No. 2133–0005, 2133–0012, and 2133–0018).

Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading of this document to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 298

Loan programs-Transportation, Maritime carriers, Mortgages, Reporting and recordkeeping requirements, Vessels.

Accordingly, 46 CFR part 298 is revised to read as follows:

PART 298—OBLIGATION GUARANTEES

Subpart A—Introduction

Sec.

Authority: 46 App. U.S.C. 1114(b), 1271 *et seq.*; 49 CFR 1.66.

Subpart A—Introduction

§ 298.1 Purpose.

This part prescribes regulations implementing Title XI of the Merchant Marine Act, 1936, as amended, governing Federal ship financing assistance (46 App. U.S.C. 1271 *et seq.*). This part uses ''you'' and ''we'' throughout. You and your refer to the applicant for Title XI financing assistance unless we note or imply otherwise. We, us, and our refer to the Maritime Administration, the Secretary of the Maritime Administration, or the Secretary of Transportation, as applicable.

§ 298.2 Definitions.

For the purpose of this part:

Act means the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 through 1294).

Actual Cost of a Vessel or Shipyard Project means, as of any specified date, the aggregate, as determined by us, of all amounts paid by or for the account of the Obligor on or before that date and all amounts which the Obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction or reconditioning of such Vessel or Shipyard Project.

Advanced Shipbuilding Technology means:

(1) Numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production which advance the state-of-the-art; and

(2) Novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers; and

(3) Other elements contributing to a shipyard's efficiency or productivity assisting it to more effectively operate in the shipbuilding industry.

Citizen of the United States means a person who, if an individual, is a Citizen of the United States by birth, naturalization or as otherwise authorized by law or, if other than an individual, meets the requirements of Section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802), as further described at 46 CFR 221.3(c).

Closing means a meeting of various participants or their representatives in a Title XI financing, at which a commitment to issue Guarantees is executed, or at which all or part of the Obligations are authenticated and issued and the proceeds are made available for a purpose set forth in section 1104(a) of the Act, or at which a Vessel is delivered and a Mortgage is executed as security to us or a Shipyard Project is completed and a Mortgage or other security is executed to us.

Commitment Closing means a meeting of various participants or their representatives in a Title XI financing at which a commitment to issue Guarantees is executed and the forms of the Obligations and the related Title XI

documents are also either agreed upon or executed.

Depository means a bank or other financial institution organized and doing business under the laws of the United States, any State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico that is authorized under such laws to exercise corporate trust powers, is a member of the Federal Deposit Insurance Corporation, and accepts deposits for purposes of implementing the program authorized by Title XI of the Act; but in the case of an Eligible Export Vessel can also mean, with our specific approval of foreign branches, but not the foreign subsidiaries, of such United States financial institutions.

Depreciated Actual Cost of a Vessel or Shipyard Project means the Actual Cost of the Vessel or Shipyard Project, as defined in this section (less a residual value of 2½ percent of United States shipyard construction cost or, in the case of Shipyard Project, a residual value as appropriate), depreciated on a straightline basis over the useful life of the Vessel or Shipyard Project as determined by us, not to exceed twenty-five years from the date the Vessel or Shipyard Project was delivered by the shipbuilder or manufacturer or, if the Vessel or Shipyard Project has been reconstructed or reconditioned, the Actual Cost of the Vessel or Shipyard Project depreciated on a straightline basis from the date the Vessel or Shipyard Project was delivered by the shipbuilder or manufacturer to the date of such reconstruction or reconditioning, on the basis of the original useful life of the Vessel or Shipyard Project, and from the date of said reconstruction or reconditioning on a straightline basis and on the basis of a useful life of the Vessel or Shipyard Project determined by us, plus all amounts paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straightline basis and on the basis of a useful life of the Vessel or Shipyard Project determined by us.

Documentation means all or part of the agreements relating to an entire Title XI financing which must be furnished to us, irrespective of whether we are a party to each agreement.

Eligible Export Vessel means a Vessel constructed, reconstructed, or reconditioned in the United States for use in world-wide trade which will, upon delivery or redelivery, be placed under or continued to be documented under the laws of a country other than the United States.

Eligible Shipyard means a private shipyard located in the United States.

General Shipyard Facility means:

(1) For operations on land, any structure or appurtenance thereto designed for the construction, repair, rehabilitation, refurbishment, or rebuilding of any Vessel, including graving docks, building ways, ship lifts, wharves and pier cranes; the land necessary for any structures or appurtenances; and equipment necessary for the performance of any function referred to in this definition; and

(2) For operations other than on land, any Vessel, floating drydock, or barge constructed in the United States, within the meaning of § 298.11(a), and used for, or a type that is usually used for, activities referred to in paragraph (1) of this definition.

Guarantee means the contractual commitment of the United States of America, represented by us, endorsed on each Obligation, to make payment to the Obligee or an agent, upon demand, of the unpaid interest on, and the unpaid balance of the principal of such Obligation, including interest accruing between the date of default and the date of payment.

Guarantee Fee means the fee payable to us in consideration for the issuance of the Guarantees.

Indenture Trustee means a bank with corporate trust powers, or a trust company, with a capital and surplus of at least $25,000,000, which is located in and organized and doing business under the laws of the United States, any State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico, which has duties under the terms of a Trust Indenture, entered into with the Obligor, providing for the issuance and registration of the ownership and transfer of Obligations, the disbursement of funds held in trust by the Indenture Trustee for the redemption and payment of interest and principal with respect to Obligations, demands by the Indenture Trustee for payment under the Guarantees in the event of default and the remittance of payments received to the Obligees. Pursuant to our specific authorization, the Indenture Trustee may also authenticate the Guarantees.

Letter Commitment means a letter from us to you, setting forth specific determinations made by us with respect to your proposed project, as required by the Act and regulations of this part, and stating our commitment to execute Guarantees, subject to compliance by you with any conditions specified therein.

Maritime Administration means the agency created within the Department of Transportation by Reorganization Plan No. 21 of 1950 (64 Stat. 1273), amended by Reorganization Plan No. 7 of 1961 (75 Stat. 840), as amended by Public Law 91–469 (84 Stat. 1036).

Modern Shipbuilding Technology means a technology to be introduced into the shipyard that is comprised of the best available proven technology, techniques, and processes appropriate to advancing the state-of-the-art of the applicant shipyard, or exceeds the best available processes of American shipbuilding, and that will enhance its productivity and make it more competitive internationally.

Mortgage means a first Preferred Mortgage on any Vessel or a first mortgage with respect to a Shipyard Project.

Obligation means any note, bond, debenture, or other evidence of indebtedness, as defined in section 1101(c) of the Act, issued for one of the purposes specified in section 1104(a) of the Act.

Obligee means the holder of an Obligation.

Obligor means any party primarily liable for payment of principal of or interest on any Obligation.

Paying Agent means any Person appointed by the Obligor to pay the principal of or interest on the Obligations on behalf of the Obligor.

Person means any individual, estate, foundation, corporation, partnership, limited partnership, joint venture, association, joint-stock company, trust, unincorporated organization or other acceptable legal business entity, government, or any agency or political subdivision thereof.

Preferred Mortgage means:

(1) In the case of a mortgage on a Vessel documented under United States law, whenever made, a mortgage that—

(i) Includes the whole of a Vessel;

(ii) Is filed in substantial compliance with 46 U.S.C. 31321;

(iii) Covers a documented Vessel or a Vessel for which an application for documentation has been filed that is in substantial compliance with the requirements of 46 U.S.C. Ch. 121 and the regulations prescribed under that Chapter by the United States Coast Guard; and

(iv) Is otherwise in compliance with the provisions of Chapter 313 of Title 46 of the U.S. Code.; and

(2) In the case of a mortgage on an Eligible Export Vessel, whenever made, a mortgage that—

(i) Constitutes a mortgage that is established as security on an Eligible Export Vessel under the laws of a foreign country;

(ii) Was executed under the laws of that foreign country and under which laws the ownership of the Vessel is documented;

(iii) Is registered under the laws of that foreign country in a public register at the port of registry of the Vessel or at a central office;

(iv) Otherwise satisfies the requirements of 46 U.S.C. 31301(6)(B) to constitute a Preferred Mortgage; and

(v) Has us as the mortgagee, or such other mortgagee as is permitted by the applicable foreign law and approved by us.

Related Party means as that term is defined by generally accepted accounting principles outlined in paragraph 24 of Statement of Financial Accounting Standards No. 57, Related Party Disclosures.

Secretary means the Secretary of Transportation, acting by and through the Maritime Administrator, Department of Transportation, the Maritime Administrator or any official of the Maritime Administration to whom is duly delegated the authority, from time to time, to perform the functions of the Secretary of Transportation or the Maritime Administrator, Department of Transportation.

Secretary's Note means a promissory note from the Obligor to the Secretary in an amount equal to the aggregate amount of the Obligations, which is issued simultaneously with the Guarantees.

Security Agreement means the primary contract between the Obligor and the Secretary, providing for the transfer to the Secretary by the Obligor of all right, title and interest of the Obligor in certain described property (including rights under contracts in existence or to be entered into), and containing other provisions relating to representations and responsibilities of the Obligor to the Secretary as security for the issuance of Guarantees.

Shipyard Project means Advanced Shipbuilding Technology and Modern Shipbuilding Technology or both unless otherwise specified.

Vessel means all types of vessels, whether in existence or under construction, including passenger, cargo and combination passenger-cargo carrying vessels, tankers, towboats, barges and dredges which are or will be documented under the laws of the United States, floating drydocks which have a capacity of at least thirty-five thousand or more lifting tons and a beam of one hundred and twenty-five feet or more between the wing walls and oceanographic research or instruction or pollution treatment, abatement or control vessels, which are owned by citizens of the United States; except that an Eligible Export Vessel will not be documented under the laws of the United States.

§ 298.3 Applications

(a) *Process and certification.* When you apply for a commitment to execute Guarantees, you must:

(1) Complete Form MA 163 and send it to the Secretary, Maritime Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(2) Certify the application in the manner that Form MA 163 prescribes.

(b) *Required information.* You must include all required information on Form MA 163 or in attached exhibits and schedules submitted with the application. You must also include the following regarding the Vessel or Vessels, if applicable:

(1) Any demise charters,

(2) Time charters in excess of six months,

(3) Contracts of affreightment,

(4) Drilling contracts, and/or

(5) Other contractual arrangements.

(c) *Declaration of Lobbying form.* You must also file the Declaration of Lobbying form as required by 31 U.S.C. 1352 with the initial application as part of the formal submission.

(d) *Attachments.* Each exhibit, schedule, and attachment must contain a statement, on the first page clearly identifying the document as an attachment to the application. You must state on each attachment the:

(1) Name of the applicant; and

(2) Date of the application.

(e) *Amendment.* You must mark ''Amendment,'' on any amendment of data contained in the application. Each first page must contain a statement clearly identifying the document as an amendment to your application and must include the:

(1) Name of the applicant;

(2) Date of application; and

(3) Certification required on Form MA 163.

(f) *Application time schedule.* You must submit each application to us at least four (4) months prior to the anticipated date by which you require a Letter Commitment.

(1) We may consider applications with less than four (4) months notice, prior to the anticipated date by which you require a Letter Commitment, if you submit written documentation to us that extenuating circumstances exist.

(2) During the first fifteen (15) calendar days after you submit your application, we will preliminarily review your application for adequacy and completeness.

(i) If we find that your application is incomplete, or if we require additional data, we will notify you promptly in writing, and you will have fifteen (15) calendar days, from the date of each request for additional information, to correct deficiencies.

(ii) If you have not corrected the deficiencies or have not made substantial progress toward correcting them, within the 15 calendar days, then we may terminate the processing of your application without prejudice.

(3) Once we consider your Title XI application complete, we will act on the application within a period of 60 calendar days, unless for good cause, we find it necessary to extend the 60 day period.

(4) If you do not complete your application and we do not act upon your application within four (4) months from the submission date, unless we extend the time period, we will notify you in writing that processing of the application is terminated and that you may reapply at a later date.

(i) If we terminate your application without prejudice, we will not require you to pay a new filing fee for a later application for a similar project that you file within one year of the termination date.

(ii) If you submit an application for a substantially different project, you must pay a new filing fee. We will determine whether the application is substantially different on a case-by-case basis.

(5) If we issue you a Letter Commitment, you must submit two (2) sets of the Closing documentation to us for review at least six (6) weeks prior to the anticipated Closing. The six weeks time period will give us time to complete an adequate review of the documentation. You must use our standard form of documentation.

(g) *Degrees of risk.* When processing applications, we will consider the different degrees of risk involved with different applications.

(h) *Additional assurances.* Before we approve your application, we may require additional assurances if you are not a well established firm with strong financial qualifications and strong market shares seeking financing guarantees for replacement vessels in an established market in which projected demand exceeds supply. The additional assurances may include:

(1) Firm charter commitments;

(2) Parent company guarantees;

(3) Greater equity participation;

(4) Private financing participation;

(5) Security interest on other property; and

(6) Similar arrangements to any of these additional assurances.

(i) *Filing Fee.* When you submit your application, you must include a $5,000 filing fee, which will be non-refundable, irrespective of whether we issue a Letter Commitment. However, the $5,000

filing fee is credited toward the investigation fee described in § 298.15(b).

(j) *Confidential Information.* (1) If we receive a request for release of your information, we will notify you. If you believe that your application, including attachments, contains information you consider to be trade secrets or commercial or financial information and privileged or confidential, or otherwise exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), you may assert a claim of confidentiality. When submitting your application, you should mark ''Confidential'' on the pages that you consider confidential. The same requirement applies to any amendment to the application.

(2) *FOIA requests.* We will apply the procedures contained in the Department of Transportation's regulations at 49 CFR 7.17 regarding FOIA requests for information that the submitter has designated as confidential. We will consider your claim of confidentiality at the time someone requests the information under FOIA.

(3) *Statement of objections.* If we receive a request for release of your information, we will notify you. We will give you a reasonable period of time to give us a written, detailed statement explaining your objections to our release of the information. We will not give you notice if:

(i) We determine that we should not disclose the information;

(ii) The information has been lawfully published or made available to the public; or

(iii) Law (other than 5 U.S.C. 552) requires us to disclose the information.

(4) *Our notification of intent to disclose.* If your objections to release of the information do not persuade us, we will notify you of our intent to disclose in a reasonable number of days before we intend to disclose the information. The written notice will include:

(i) A statement explaining our reasons for not accepting the submitter's disclosure objections;

(ii) A description of the business information that we will disclose; and

(iii) A specific disclosure date.

(k) *Priority.* We will give priority for processing applications to:

(1) Vessels capable of serving as a United States naval and military auxiliary in time of war or national emergency,

(2) Requests for financing construction of equipment or vessels less than one year old as opposed to the refinancing of existing equipment or vessels that are one year old or older,

(3) Any applications involving the purchase of vessels currently financed under Title XI if the purpose is to process the assumption of the obligations,

(4) Applications from those willing to take guarantees for less than the normal term for that class of vessel.

(5) *Eligible Export Vessels.* We may issue a commitment to guarantee Obligations for an Eligible Export Vessel if we determine, in our sole discretion, that the issuance of a commitment to guarantee Obligations for an Eligible Export Vessel will not cause us to deny an economically sound application to issue a commitment to guarantee Obligations for vessels documented under the laws of the United States operating in the domestic or foreign commerce of the United States, after considering:

(i) The status of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States and operating or to be operated in the domestic or foreign commerce of the United States;

(ii) The economic soundness of the applications referred to in paragraph (k)(5)(i) of this section; and

(iii) The amount of guarantee authority available.

(Unless indicated otherwise in this part 298, information collection requirements have been approved by the Office of Management and Budget under control number 2133–0018.)

Subpart B—Eligibility

§ 298.10 Citizenship.

(a) *Applicability.* Before you receive a legal or beneficial interest in a Vessel financed under Title XI of the Act which is operating in or will be operated in the U.S. coastwise trade, you and any other Person, (including the shipowner and any bareboat charterer), must establish your United States citizenship, within the definition of ''Citizen of the United States'' in § 298.2.

(b) *Prior to Letter Commitment.* Before we issue the Letter Commitment, you and any Person identified in paragraph (a) of this section, who is required to establish United States citizenship must establish United States citizenship in the form and manner stated in 46 CFR part 355.

(c) *Commitment Closing.* (1) Within 10 days before every Commitment Closing, unless we waive this requirement for good cause, you and all Persons identified with the project who have previously established United States citizenship in accordance with paragraphs (a) and (b) of this section, must submit pro forma Supplemental Affidavits of Citizenship which we have approved for Closing as to form and substance, and

(2) On the date of the Closing, three (3) executed copies of Supplemental Affidavits of Citizenship that:

(i) Show evidence of the continuing United States citizenship of the Persons in paragraph (a) of this section; and

(ii) Bear the date of the Closing.

(d) *Additional information.* If we request additional material essential to clarify or support evidence of U.S. citizenship, you, the Obligor, or any Person identified in paragraph (a) of this section must submit the additional information.

(Approved by the Office of Management and Budget under control number 2133–0012.)

§ 298.11 Vessel requirements.

When you apply for a Guarantee, the Vessel for which you intend to receive financing for construction, reconstruction, or reconditioning must meet the following criteria:

(a) *United States Construction.* A Vessel, including an Eligible Export Vessel, financed by an Obligation Guarantee must be constructed in the United States. United States construction means that the Vessel is assembled in a shipyard geographically located within the United States.

(1) A U.S.-flag Vessel must meet the applicable United States Coast Guard requirements.

(2) An Eligible Export Vessel must be constructed in accordance with the requirements of the International Maritime Organization and must meet the applicable:

(i) Laws, rules, and regulations of its country of documentation,

(ii) Treaties, conventions on international agreements to which that country is a signatory, and

(iii) Laws of the ports it serves.

(b) *Actual Cost.* We must approve your estimated Actual Cost for the construction, reconstruction, or reconditioning of a Vessel as a condition for issuance of the Letter Commitment. The estimated cost of the Vessel may include escalation for the anticipated construction period of the Vessel. We may contact the shipyard directly and may require you to have the shipyard that has contracted to build the Vessel to submit additional technical data, backup cost details, and other evidence if we have insufficient data.

(c) *Class, condition, and operation.* The Vessel must be constructed, maintained, and operated so as to meet the highest classification, certification,

rating, and inspection standards for vessels of the same age and type imposed by:

(1) The American Bureau of Shipping (ABS), or

(2) Another classification society that also meets the inspection standards of the United States Coast Guard with respect to the documentation of U.S.-flag vessels, or

(3) In the case of an Eligible Export Vessel, such standards as may be imposed by a member of the International Association of Classification Societies (IACS), classification societies to be ISO 9000 series registered or Quality Systems Certificate Scheme qualified IACS members who have been recognized by the United States Coast Guard as meeting acceptable standards with such recognition including, at a minimum, that the society meets the requirements of IMO Resolution A.739(18) with appropriate certificates required at delivery, so long as the home country of the IACS member accords equal reciprocity, as determined by us, to United States classification societies.

(4) Except in the case of an Eligible Export Vessel, the Vessel must be in compliance with all applicable laws, rules, and regulations as to condition and operation, including, but not limited to, those administered by the:

(i) United States Coast Guard,

(ii) Environmental Protection Agency,

(iii) Federal Communications Commission,

(iv) Public Health Service, or

(v) Their respective successor agencies, and

(vi) All applicable treaties and conventions to which the United States is a signatory, including, but not limited to, the International Convention for Safety of Life at Sea.

(d) *Documentation.* (1) An Eligible Export Vessel must be documented in a country that is party to the International Convention for Safety of Life at Sea, or other treaty, convention, or international agreement governing vessel inspection to which the United States is a signatory, and must comply with the applicable laws, rules, and regulations of its country of documentation, all applicable treaties, conventions on international agreements to which that country is a signatory, and the laws of the ports it serves.

(2) All other Eligible Vessels must be documented under U.S. registry.

(e) *Reconstruction or reconditioning.* Repairs necessary for the Vessel to meet the classification standards approved by us, or any regulatory body, or for previous inadequate maintenance and repair, will not constitute reconstruction or reconditioning within the meaning of this paragraph.

(f) *Condition survey.* If your application involves a reconstructed or reconditioned Vessel, you must make the Vessel available at a time and place acceptable to us so that we may conduct a condition survey. You must:

(1) Pay the cost of the condition survey.

(2) Ensure that the scope and extent of the condition survey will not be less effective than that required by the last ABS special survey completed (if the Vessel is classified), next due or overdue, whichever date is nearest in accordance with the Vessel's age.

(3) Ensure that the Vessel meets the standard of the survey necessary for retention of class (if the Vessel is classified), and

(4) Ensure that the operating records of the Vessel reflect normal operation of the Vessel's main propulsion and other machinery and equipment, consistent with accepted commercial experience and practice.

(g) *Metric Usage.* Our preferred system of measurement and weights for Vessels and Shipyard Projects is the metric system.

§ 298.12 Applicant and operator's qualifications.

(a) *Operator's qualifications.* We will not issue a Letter Commitment without a prior determination that you, the bareboat charterer, or other Person identified in the application as the operator of the Vessel(s) or Shipyard Project, possesses the necessary experience, ability and other qualifications to properly operate and maintain the Vessel(s) or Shipyard Project which serve as security for the Guarantees. You must also comply with all requirements of this part.

(b) *Identity and ownership of applicant.* In order for us to assess the likelihood that the project will be successful, we need information about you and the proposed project. To permit this assessment, you must provide the following information in your application for Title XI guarantees:

(1) *Incorporated companies.* If you or any bareboat charterer is an incorporated company, you must submit the following identifying information:

(i) Name of company, place and date of incorporation, and tax identification number, or if appropriate, international identification number of the company;

(ii) Address of principal place of business; and

(iii) Certified copy of certificate of incorporation and bylaws.

(2) *Partnerships, limited partnerships, limited liability companies, joint ventures, associations, unincorporated companies.* If you or any bareboat charterer is a partnership, limited partnership, limited liability company, joint venture, association, or unincorporated company, you must submit the following identifying information:

(i) Name of entity, place and date of formation, and tax identification number, or if appropriate, international identification number of entity;

(ii) Address of principal place of business; and

(iii) Certified copy of certificate of formation, partnership agreement or other documentation forming the entity.

(3) *Other entities.* For any entity that does not fit the descriptions in paragraphs (b)(1) and (b)(2) of this section, we will specify the information that the entity must submit regarding its identity and ownership.

(4) You and any bareboat charterer must provide a brief statement of the general effect of each voting agreement, voting trust or other arrangement whereby the voting rights of any interest in you or the bareboat charterer are controlled or exercised by any person who is not the holder of legal title to such interest.

(5) You and any bareboat charterer must provide the following information regarding the entity's officers, directors, partners or members:

(i) Name and address;

(ii) Office or position; and

(iii) Nationality and interest owned (for example, shares owned and whether voting or non-voting).

(c) *Business and affiliations of applicants.* You must include:

(1) A brief description of your principal business activities during the past five years.

(2) A list of all business entities that directly or indirectly, through one or more intermediaries, control, are controlled by, or are under common control with you.

(3) The nature of the business transacted by each listed entity and the relationship between these entities. This information may be presented in the form of a chart.

(4) Whether any of the affiliated entities have previously applied for or received Title XI assistance.

(5) A statement indicating whether the applicant, any predecessor or affiliated entity has been in bankruptcy or reorganization under any insolvency or reorganization proceeding and if so, give details.

(6) A statement indicating whether the applicant or any predecessor or affiliated entity is now, or during the past five years has been, in default

under any agreement or undertaking with others or with the United States of America, or is currently delinquent on any Federal debt, and if so, provide explanatory information.

(7) A list of your banking references:

(i) Principal bank(s) or lending institutions(s)—name and address;

(ii) Nature of relationship; and

(iii) Individual references—name(s), telephone and fax number of banking officer(s).

(d) *Management of applicant.* You must include:

(1) A brief description of the principal business activities during the past five years of each officer, director, partner or member you listed in paragraph (b)(5) of this section and if these persons (have) act(ed) as executive officers in other entities, indicate the names of these entities and whether such entities have defaulted on any U.S. Government debt, and

(2) The name and address of each organization engaged in business activities which have a direct financial relationship to those carried on or to be carried on by you with which any person listed in paragraph (d)(1) of this section has any present business connection, the name of each such person and, briefly, the nature of such connection.

(e) *Applicant's property and activity.* You must provide:

(1) A brief description of the general character and location of the principal assets employed in your business and those of your affiliate, other than vessels. Describe financial encumbrances, if any;

(2) A general description of the vessels currently owned and/or operated by you or your affiliates and a description of the areas of operation; and,

(3) In the case of an Eligible Shipyard which is an applicant for a guarantee for a Shipyard Project, a brief description of the general character (that is, the number of building ways, launch method, drydocks and size) and location (that is, water depth, length of riverfront) of the principal properties of the applicant employed in its business. You must also describe any financial encumbrances.

(f) *Operating ability.* (1) You must submit a detailed statement showing your ability to successfully operate the financed Vessel(s).

(2) If a company other than you will operate the Vessel(s), then the information in paragraph (f)(1) of this section must be provided for the operating company together with a copy of the operating agreement.

(3) You must submit a copy of any management agreement(s) between you and any related or unrelated organization(s) which will affect the management of the Title XI Vessel or shipyard.

(4) In the case of an Eligible Shipyard, which is an applicant for a guarantee for a Shipyard Project, a detailed statement must be submitted showing your ability to successfully operate the Shipyard Project and construct/reconstruct Vessels, including name, education, background of, and licenses held by, all senior supervisory personnel concerned with the physical operation of the Shipyard Project.

(5) Where an operator has an historical performance record, we will consider this record in evaluating your operating ability. For newly formed entities, we will evaluate the performance of affiliates and/or companies associated with the principals (where the principals have a significant degree of control) in determining your operating ability. However, unless the affiliates or principals have an obligation with respect to the debt, we will not consider historical performance in evaluating your creditworthiness.

§ 298.13 Financial requirements.

(a) *In general.* To be eligible for guarantees, you and/or your parent organization (when applicable), and any other participants in the project having a significant financial or contractual relationship with you must submit information, respectively, on their financial condition. You must submit this information at the time of the application. You must supplement this information if we require it in subsequent requests. You must submit information satisfactory to us to show that financial resources are available to support the Title XI project.

(b) *Cost of the project.* You must submit the following cost information with respect to the project:

(1) *Vessel financing Guarantees.* A detailed statement of the estimated Actual Cost of construction, reconstruction, or reconditioning of the Vessel(s) including those items which would normally be capitalized as Vessel construction costs. Net interest during construction is the total estimated construction period interest on non-equity funds less estimated earnings from the escrow fund, if such fund is to be established prior to Vessel(s) delivery.

(2) *Foreign components.* (i) You must exclude each item of foreign components and services from Actual Cost, unless we specifically grant a waiver for the item. We will not grant a waiver for major foreign components of the hull and superstructure.

(ii) In deciding whether to grant a waiver for foreign components and services, we will consider your certification, to be reviewed by us, stating that:

(A) A foreign item or service is not available in the United States on a timely or price-competitive basis, or

(B) The domestic item or service is not of sufficient quality.

(iii) Although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying your equity requirements imposed by paragraph (f) of this section.

(3) *Costs incurred by written contracts.* If any of the costs have been incurred by written contracts such as shipyard contract, management or operating agreement, you should forward signed copies with the application. We may require you to have the contracting shipyard submit back-up cost details and technical data. You must submit this information in the format given in the Title XI application procedures.

(4) *Shipyard Project.* In the case of Shipyard Project, a detailed statement of the actual cost of such technology, including those items which would normally be capitalizable. If you incurred any of the costs through written contracts, you should forward signed copies of the contract with the application. We may require you to have manufacturers submit back-up cost details and technical data. You must submit this information in the format given in the Title XI application procedures.

(5) *Shore facilities, cargo containers, etc.* A detailed statement showing the actual cost of any shore facilities, cargo containers, etc., required to be purchased in conjunction with the project.

(6) *Additional project costs.* A detailed statement showing any other costs associated with the project which were not included in paragraphs (b)(1) through (5) of this section, such as:

(i) Legal and accounting fees;

(ii) Printing costs;

(iii) Vessel insurance;

(iv) Underwriting fees;

(v) Fee to a Related Party; and

(vi) Other fees.

(7) *Request for Actual Cost Approval and Reimbursement.* If the project involves refinancing, you must also submit the exhibit entitled Request for Actual Cost Approval and Reimbursement, its summary sheet and

supplemental schedules at the time of filing the application.

(c) *Financing.* (1) You must:

(i) Describe, in detail, how the costs of the project (sums referred to in paragraph (b) of this section) will be funded and the timing of such funding.

(ii) Include any vessel trade-ins, related or third party financings, etc.

(iii) Provide the proposed terms and conditions of all private funding, from both equity and debt sources and clearly identify all parties involved.

(iv) Obtain our approval of the terms and conditions for co-financing (involving a blend of Title XI and private financing for the debt portion), including the ability of the co-financiers to exercise their rights against collateral shared with us for any transaction.

(v) Demonstrate with financial statements that at least 12½ percent, or 25 percent as applicable, of the construction or reconstruction costs of the Vessel(s) or the cost of the Shipyard Project will be in the form of equity and not additional debt, except to the extent allowed by paragraph (h) of this section.

(vi) Disclose all of the Vessel(s), Shipyard Project financing in the format given in the Title XI application procedures.

(2) *Financial Information.* You must provide us with financial statements, prepared in accordance with U.S. generally accepted accounting principles (GAAP), and include notes that explain the basis for arriving at the figures except that for Eligible Export Vessels, your financial statements must be in accordance with GAAP if formed in the U.S., or reconciled to GAAP if formed in a foreign country unless a satisfactory justification is provided explaining the inability to reconcile. The financial statements must include the following:

(i) The most recent financial statements for you, your parent company and other significant participants, as applicable (year end or intermediate), and the three most recent audited statements with details of all existing debt. If you are a new entity and are to be funded from or guaranteed by external source(s), you must provide such statements for such source(s);

(ii) Your pro forma balance sheet and that of any guarantor (if applicable) as of the estimated date of execution of the Guarantees reflecting the assumption of the Title XI Obligations, including the current liability; and

(iii) Your pro forma balance sheets and that of the guarantor (if applicable) for five years after the Closing.

(Approved by the Office of Management and Budget under control number 2133–0005.)

(d) *Financial definitions.* For the purpose of this section and §§ 298.35 and 298.42 of this part:

(1) ''Company'' means any Person subject to financial requirements imposed under paragraph (f) of this section and in § 298.35, as well as the reporting requirements imposed by § 298.42.

(2) ''Working Capital'' means the excess, if any, of current assets over current liabilities, both determined in accordance with GAAP and adjusted as follows:

(i) In determining current assets you must exclude:

(A) Any securities, obligations or evidence of indebtedness of a Related Party or of any stockholder, director, officer or employee (or any member of his family) of the Company or of such Related Party, except advances to agents required for the normal current operation of the Company's vessels and current receivables arising out of the ordinary course of business and not outstanding for more than 60 days; and

(B) An amount equal to any excess of unterminated voyage revenue over unterminated voyage expenses.

(ii) In determining current liabilities, you must deduct any excess of unterminated voyage expenses over unterminated voyage revenue and add one half of all annual charter hire and other lease obligations (having a term of more than six months) due and payable within the succeeding fiscal year, other than charter hire and such other lease obligations already included and reported as a current liability on the Company's balance sheet.

(3) ''Equity'' or ''net worth'' means, as of any date, (the total of paid-in-capital stock, paid-in surplus, earned surplus and appropriated surplus,) and all other amounts that would be included in net worth in accordance with GAAP, but does not include:

(i) Any receivables from any stockholder, director, Officer or employee (or their family) of the Company or from any Related Party (other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days), and

(ii) Any increment resulting from the reappraisal of assets.

(4) ''Long-Term Debt'' means, as of any date, the total notes, bonds, debentures, equipment obligations and other evidence of indebtedness that would be included in long term debt in accordance with GAAP. You must include any guarantee or other liability for the debt of any other Person not otherwise included on the balance sheet.

(5) ''Capitalizable Cost'' means the aggregate of the Actual Cost of the Vessel or Shipyard Project and those other items which customarily would be capitalized as Vessel costs or Shipyard Project costs under GAAP.

(6) ''Depreciated Capitalizable Cost'' means the Capitalizable Cost of a Vessel or Shipyard Project, depreciated on a straightline basis over the same useful life as determined by us for Actual Cost, and depreciated as required by § 298.21(g).

(e) *Applicability.* The financial resources must be adequate to meet the Equity requirements in the project and Working Capital requirements, as set forth in paragraph (f) of this section.

(1) The various financial requirements shall be met by the owner of the Vessel or Vessels or Shipyard Project to be security to us for the Guarantees, except that if the owner is not the operator, the overall financial requirements will be allocated among the owner, the operator and other parties as determined by us.

(2) The Company must satisfy the applicable financial requirements, in addition to any other financial requirements already imposed or which may be imposed upon it in connection with other Vessels financed under the Title XI program or in connection with other Shipyard Project financed under the Title XI program.

(3) A determination as to whether the Company has satisfied all financial requirements shall be based on the assumption that the projected financing has been completed. Accordingly, you must submit:

(i) A pro forma balance sheet at the time of the application, reflecting any adjustment made pursuant to paragraph (f)(1)(i) of this section, and

(ii) A revised pro forma balance sheet, reflecting the completion of the projected financing, at least five business days before the first Closing at which the Obligations are issued.

(f) *Financial requirements at Closing.* Financial requirements can apply to one or more Companies, and are determined as follows:

(1) Owner as operator. Where the owner is to be the Vessel operator, minimum requirements at Closing usually are as follows:

(i) Working Capital. The Company's Working Capital shall not be less than one dollar. This Working Capital requirement is based on the premise that the Company engages in a service-type activity with only normal vessel inventory. If Working Capital includes other inventory, in addition to such normal Vessel inventory, we may adjust the requirement as appropriate. Also, if we determine that the Company's

Working Capital includes amounts receivable that it reasonably could not expect to collect within one year, we may make adjustments to the Working Capital requirements.

(ii) Long-Term Debt. The Company's Long-Term Debt must not be greater than twice its Equity.

(iii) Equity (net worth). The Company's Equity must be:

(A) The greater of:

(1) 50 percent of its Long-Term Debt; or

(2) 90 percent of its Equity as shown on the last audited balance sheet, dated not earlier than six months before the date of issuance of the Letter Commitment; or

(B) Such other amount as may be specied by us.

(2) Lessee or charterer as operator. Where a lessee or charterer is to be the Vessel operator, minimum requirements at Closing usually are as follows:

(i) Working Capital. The operator's Working Capital requirement will be the same as that which would have otherwise been imposed on the owner as operator under paragraph (f)(1)(i) of this section and based on the same premise stated in that paragraph.

(ii) Long-Term Debt. The operator's Long-Term Debt will be the same as that which would have otherwise been imposed on the owner as operator under paragraph (f)(1)(ii) of this section.

(iii) Equity (net worth). The operator's equity requirement will be the same as that which would have otherwise been imposed on the owner as operator under paragraph (f)(1)(iii) of this section.

(iv) The owner's Equity shall at least be equal to the difference between the Capitalizable Cost or Depreciated Capitalizable Cost of the Vessel (whichever is applicable) and the total amount of the Guarantees.

(3) Owner as General Shipyard Facility. Where the owner of Shipyard Project is a General Shipyard Facility, minimum requirements at Closing will be the same as those set forth in paragraph (f)(1) of this section for an owner as operator.

(g) *Adjustments to financial requirements at Closing.* If the owner, although not operating a Vessel, assumes any of the operating responsibilities, we may adjust the respective Working Capital and Equity requirements of the owner and operator, otherwise applicable under paragraph (f) of this section, by increasing the requirements of the owner and decreasing those of the operator by the same amount.

(h) *Subordinated debt considered to be Equity.* With our consent, part of the Equity requirements applicable under paragraphs (c) and (f) of this section may be satisfied by debt, fully subordinated as to the payment of principal and interest on the Secretary's Note and any claims secured as provided for in the Security Agreement or the Mortgage. Repayment of subordinated debt may be made only from funds available for payment of dividends or for other distributions, in accordance with requirements of the Title XI Reserve Fund and Financial Agreement (described in § 298.35). Such subordinated debt shall not be secured by any interest in property that is security for Guarantees under Title XI, unless the Obligor and the lender enter into a written agreement, satisfactory to us, providing, among other things, that if any Title XI financing or advance by us to the Obligor shall occur in the future, such security interest of the lender shall become subordinated to any indebtedness to us incurred by the Obligor and to any security interest obtained by us in that property or other property, with respect to the subsequent indebtedness.

(i) *Modified requirements.* We may waive or modify the financial terms or requirements otherwise applicable under this section and §§ 298.35 and 298.42, upon determining that there is adequate security for the Guarantees. We may impose similar financial requirements on any Person providing other security for the Guarantees.

§ 298.14 Economic soundness.

(a) *Economic Evaluation.* We shall not issue a Letter Commitment for guarantees unless we find that the proposed project, regarding the Vessel(s) or Shipyard Project for which you seek Title XI financing or refinancing, will be economically sound. The economic soundness and your ability to repay the Obligations will be the primary basis for our approval of a Letter Commitment. We will consider the value of the collateral for which we will issue the Obligations as only a secondary consideration in determining your ability to repay the Obligations.

(b) *Basic feasibility factors.* In making the economic soundness findings, we shall consider all relevant factors, including, but not limited to:

(1) The need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this title is in effect;

(2) The market potential for the employment of the Vessel or utilization of the Shipyard Project of a General Shipyard Facility over the life of the guarantee;

(3) Projected revenues and expenses associated with employment of the Vessel or utilization of the Shipyard Project of a General Shipyard Facility;

(4) Any charters, contracts of affreightment, transportation agreements, or similar agreements or undertakings relevant to the employment of the Vessel or utilization of the Shipyard Project of a General Shipyard Facility;

(5) For inland waterways, the need for technical improvements including but not limited to increased fuel efficiency, or improved safety; and

(6) Other relevant criteria.

(c) *Project Feasibility.* To demonstrate the economic feasibility of the project over the Guarantee period, you must submit the following information:

(1) *Purpose.* A detailed purpose for the obligations to be guaranteed.

(2) *Necessary exhibits.* Necessary exhibits to support your project feasibility as supplements to the application.

(3) *Relevant market information.* Information regarding the relevant market including a written narrative of the market (or potential market) for the project including full details on the following, as applicable:

(i) Nature and amount of cargo/passengers available for carriage and your projected share (provide also the number of units; that is containers, trailers, etc.);

(ii) Services or routes in which the Vessel(s) will be employed, including an itinerary of ports served, with the arrival and departure times, sea time, port time, hours working or idle in port, off hire days and reserve or contingency time, proposed number of annual sailings and number of annual working days for the Vessel(s) or, with respect to Shipyard Project, how the equipment will be employed;

(iii) Suitability of the Vessel(s) or Shipyard Project for their anticipated use;

(iv) Significant factors influencing your expectations for the future market for the Vessel(s) or Shipyard Project, for example, competition, government regulations, alternative uses, and charter rates; and

(v) Particulars of any charters, contracts of affreightment, transportation agreements, etc. You should supplement the narrative by providing copies of any marketing studies and/or supporting information (for instance, existing or proposed charters, contracts of affreightment, transportation agreements, and letters of intent from prospective customers).

(vi) The potential for purchasing existing equipment of a reasonable

condition and age from another source, including information regarding:

(A) Market assessment concerning the availability and cost of existing equipment that may be an alternative to new construction or the new Shipyard Project;

(B) The cost of modification, reconditioning, or reconstruction of existing equipment to make it suitable for intended use; and

(C) Descriptions of any bids or offers which you had made to purchase existing equipment, especially Vessels which currently are financed with Title XI Obligations including date of offer, Vessels, and amount of offer.

(4) *Revenues.* A detailed statement of the revenues expected to be earned from the project based upon the information in paragraph (c) of this section. Vessel revenue projections shall include shipping/hire rates for current market conditions or market conditions expected to exist at the time of Vessel delivery taking into account seasonal or temporary fluctuations. The revenues shall be based on a realistic estimate of the Vessel(s) or the new Shipyard Project utilization rate and at a breakeven rate for the project. A justification for the utilization rate shall be supplied and should indicate the number of days per year allowed for maintenance, drydocking, inspection, etc.

(5) *Expenses for Vessel financing.* For applications for Vessel financing, a detailed statement of estimated Vessel expenses including the following (where applicable):

(i) Estimated Vessel daily operating expenses, including wages, insurance, maintenance and repair, fuel, etc. and a detailed projection of anticipated costs associated with long term maintenance of the Vessel(s) such as drydocking and major mid-life overhauls, with a time frame for these events over the period of the Guarantee;

(ii) If applicable, a detailed breakdown of those expenses associated with the Vessel(s) voyage, such as port fees, agency fees and canal fees that are assessed as a result of the voyage; and

(iii) A detailed breakdown of annual capital costs and administrative expenses, segregated as to:

(A) Interest on debt;

(B) Principal amortization; and

(C) Salaries and other administrative expenses (indicate basis of allocation).

(6) *Expenses for a Shipyard Project.* For applications for a Shipyard Project, a statement of estimated expenses related to the Shipyard Project, including the following (where applicable):

(i) A detailed breakdown of estimated daily operating expenses for the shipyard, such as wages, including staffing, and segregated as to straight-time, overtime and fringe benefits; utility costs; costs of stores, supplies, and equipment; maintenance and repair cost; insurance costs; and, other expenses (indicate items included); and

(ii) A detailed breakdown of annual capital costs and administrative expenses, segregated as to:

(A) Interest on debt;

(B) Principal amortization; and

(C) Salaries and other administrative expenses (indicate basis of allocation).

(7) *Forecast of Operations.* Utilizing the revenues and expenses provided in paragraphs (c)(4),(5) and (6) of this section, you shall provide a forecast of operating cash flow, as defined in paragraph (d)(4) of this section, for the Title XI project for the first full year of operations and the next four years. The cash flow statements should be footnoted to explain the assumptions used.

(d) *Objective Criteria.* We must make a finding of economic soundness as to each project based on an assessment of the entire project. In order for the project to receive approval, we must determine that a project meets the following criteria:

(1) The projected long-term demand (equal to length of time that you request financing) for the particular Vessel(s) or new Shipyard Project to be financed must exceed the supply of similar vessels or new shipyard project in the applicable markets. We will determine the supply of similar vessels and similar shipyard projects based on:

(i) Existing equipment,

(ii) Similar vessels or new shipyard project under construction, and

(iii) The projected need for new equipment in that particular segment of the maritime industry.

(2) We will base our determination of the project's economic soundness on the following:

(i) Conformity of your projections with our supply and demand analyses;

(ii) Availability of charters, letters of intent, outstanding contractual commitments, contracts of affreightment, transportation agreements or similar agreements or undertakings; and

(iii) Your existing market share compared with the market share necessary to meet projected revenues.

(3) In cases where market conditions are temporarily inadequate for you to service the Obligation indebtedness at the time of Vessel delivery, or completion of the Shipyard Project, we may approve your application only if you have sufficient outside sources of cash flow to service your indebtedness during this temporary period.

(4) With respect to the asset for which Obligations are to be issued, the operating cash flow to Obligation debt service ratio over the term of the Guarantee must be in excess of 1:1. Operating cash flow means revenues less operating and capital expenses including taxes paid but exclusive of interest, accrued taxes, depreciation and amortization for the Title XI asset. Debt service means interest plus principal.

§ 298.15 Investigation fee.

(a) *In general.* Before we issue a Letter Commitment, you shall pay us an investigation fee. The Letter Commitment will state the fee which is based on the formula in paragraph (b) of this section.

(1) The investigation fee covers the cost of the investigation of the project described in the application and the participants in the project, the appraisal of properties offered as security, Vessel inspection during construction, reconstruction, or reconditioning (where applicable) and other administrative expenses.

(2) If, for any reason, we disapprove the application, you shall pay one-half of the investigation fees.

(b) *Base Fee.* (1) The investigation fee shall be one-half (½) of one percent on Obligations to be issued up to and including $10,000,000, plus

(2) One-eighth (⅛) of one percent on all Obligations to be issued in excess of $10,000,000.

(c) *Credit for filing fee.* You will receive credit for the $5,000 filing fee that you paid upon filing the original application (described in § 298.3) towards the investigation fee.

§ 298.16 Substitution of participants.

(a) You may request our permission to substitute participants to a Mortgage and/or Security Agreement in a financing that is receiving assistance authorized by Title XI of the Act.

(b) A non-refundable fee of $3,000 is due, payable at the time of the request. The fee defrays all costs of processing and reviewing a joint application by a mortgagor and/or Obligor and a proposed transferee of a Vessel or Shipyard Project, which is security for Title XI debt, if the proposed transferee is to assume the Mortgage and/or the Security Agreement.

§ 298.17 Evaluation of applications.

(a) In evaluating project applications, we shall also consider whether the application provides for:

(1) The capability of the Vessel(s) serving as a naval and military auxiliary in time of war or national emergency.

(2) The financing of the Vessel(s) within one year after delivery.

(3) The acquisition of Vessel(s) currently financed under Title XI by assumption of the total obligation(s).

(4) The Guarantees extend for less than the normal term for that class of vessel.

(5) In the case of an Eligible Shipyard, the capability of the shipyard to engage in naval vessel construction in time of war or national emergency.

(6) In the case of Shipyard Project, the Guarantees extend for less than the technological life of the asset.

(b) In determining the amount of equity which you must provide, we will consider, among other things, the following:

(1) Your financial strength;

(2) Adequacy of collateral; and

(3) The term of the Guarantees.

§ 298.18 Financing Shipyard Projects.

(a) *Initial criteria.* We may issue Guarantees to finance a Shipyard Project at a General Shipyard Facility. We may approve such Guarantees after we consider whether the Guarantees will result in shipyard modernization and support increased productivity.

(b) *Detailed statement.* You must provide a detailed statement, with the Guarantee application, which will provide the basis for our consideration.

(c) *Required conditions.* We shall approve your application for loan guarantees under this section if we determine the following:

(1) The term for such Guarantees will not exceed the reasonable economic useful life of the collective assets which comprise this Shipyard Project;

(2) There is sufficient collateral to secure the Guarantee; and

(3) Your application will not prevent us from guaranteeing debt for a Shipyard Project that, in our sole opinion, will serve a more desirable use of appropriated funds. In making this determination, we will consider:

(i) The types of vessels which will be built by the shipyard,

(ii) The productivity increases which will be achieved,

(iii) The geographic location of the shipyard,

(iv) The long-term viability of the shipyard,

(v) The soundness of the financial transaction,

(vi) Any financial impact on other Title XI transactions, and

(vii) The furtherance of the goals of the Shipbuilding Act.

§ 298.19 Financing Eligible Export Vessels.

(a) *Notification to Secretary of Defense.* (1) We will provide prompt notice of our receipt of an application for a loan Guarantee for an Eligible Export Vessel to the Secretary of Defense.

(2) During the 30-day period, beginning on the date on which the Secretary of Defense receives such notice, the Secretary of Defense may disapprove the loan guarantee if the Secretary of Defense makes an assessment that the Vessel's potential use may cause harm to United States national security interests.

(3) The Secretary of Defense may not disapprove a loan Guarantee under this section solely on the basis of the type of vessel to be constructed with the loan Guarantee. The authority of the Secretary of Defense to disapprove a loan Guarantee under this section may not be delegated to any official other than a civilian officer of the Department of Defense appointed by the President, by and with the advice and consent of the Senate. We will not approve a loan guarantee disapproved by the Secretary of Defense.

(b) *Vessel eligibility.* We may not approve a Guarantee for an Eligible Export Vessel unless:

(1) We find that the construction, reconstruction, or reconditioning of the Vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency;

(2) The owner of the Vessel agrees with us that the Vessel shall not be transferred to any country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States; and

(3) We determine that the countries in which the shipowner, its charterers, guarantors, or other financial interests supporting the transaction, if any, have their chief executive offices or have located a substantial portion of their assets, present an acceptable financial or legal risk to our collateral interests. Our determination will be based on confidential risk assessments provided by the Inter-Agency Country Risk Assessment System and will take into account any other factors related to the loan guarantee transaction that we deem pertinent.

Subpart C—Guarantees

§ 298.20 Term, redemptions, and interest rate.

(a) *In general.* The maturity date of the Obligations must be satisfactory to us and must not exceed the anticipated physical and economic life of the Vessel or Vessels or Shipyard Project, and may be less than but no more than:

(1) Twenty-five years from the date of delivery from the shipbuilder of a single new Vessel which is to be security for Guarantees;

(2) Twenty-five years from the date of delivery from the shipyard of the last of multiple Vessels which are to be security for the Guarantees but that the amount of the Guarantees will relate to the amount of the depreciated actual cost of the multiple Vessels as of the Closing;

(3) The later of twenty-five years from the date of original delivery of a reconstructed, or reconditioned Vessel which is to be security for the Guarantees, or at the expiration of the remaining useful life of the Vessel, as we determine; or

(4) The technological life of the Shipyard Project.

(b) *Required redemptions.* Where multiple Vessels or multiple Shipyard Project assets are to be used as security for the Guarantees, as set forth in paragraph (a) of this section, we may require payments of principal prior to maturity (redemptions) regarding all related Obligations, as we may deem necessary to maintain adequate security for the Guarantees.

(c) *Interest rate.* We will make a determination as to the reasonableness of the interest rate of each Obligation, taking into account the range of interest rates prevailing in the private market for similar loans and the risks that we assume.

§ 298.21 Limits.

(a) *Actual Cost basis.* We will issue a guarantee on an amount of the Obligation satisfactory to us based on the economic soundness of the transaction. The Obligation amount may be less than but not more than 75 percent or 87½ percent, whichever is applicable, under the provisions of section 1104A(b)(2) or section 1104B(b)(2) of the Act of the Actual Cost of the Vessel or Vessels or Shipyard Project asset(s).

(1) If minimum horsepower of the main engine is a requirement for Guarantees up to 87½ percent of the Actual Cost, the standard for the horsepower will be continuous rated horsepower.

(2) Where we refinance existing debt, the amount of new Obligations we issue for the existing debt may not exceed the lesser of:

(i) The amount of outstanding debt being refinanced (whether or not receiving assistance under Title XI); or

(ii) Seventy-five or 87½ percent, whichever is applicable, of the Depreciated Actual Cost of the Vessel or Shipyard Project with respect to which the new Obligations are being issued.

(b) *Actual Cost items.* Actual Cost is comprised essentially of those items which would customarily be capitalized as Vessel or Shipyard Project construction costs such as designing, engineering, constructing (including performance bond premiums that we approve), inspecting, outfitting and equipping.

(1) Cost items include those items usually specified in Vessel or Shipyard Project construction contracts, *e.g.,* changes and extras, cost of owner furnished equipment, shoreside spare parts and commitment fees and interest on the Obligations or other borrowings incurred during the construction period (excluding interest paid on subordinated debt considered to be Equity), and less income realized from investment of Escrow Fund deposits during the construction period.

(2) Commissions (which represent a portion of the total shipyard contract price) may be included in the foreign equipment and services amount of the Actual Cost of an export project, provided:

(i) A majority of the work done by the parties receiving the commissions is in the form of design and engineering work, and

(ii) The commissions represent a small amount of the total contract price.

(3) You may include Guarantee Fees determined in accordance with the provisions of section 1104(e) of the Act as an item of Actual Cost.

(4) In approving an item of Actual Cost, we will consider all pertinent factors.

(c) *Items excludible from Actual Cost.* Actual Cost shall not include any other costs such as the following:

(1) Legal fees or expenses;

(2) Accounting fees or expenses;

(3) Commitment fees or interest other than those specifically allowed;

(4) Fees, commissions or charges for granting or arranging for financing;

(5) Fees or charges for preparing, printing and filing an application for Title XI Guarantees and supporting documents, for services rendered to obtain approval of the application and for preparing, printing and processing documents relating to the application for Guarantees;

(6) Underwriting or trustee's fees;

(7) Foreign, federal, state or local taxes, user fees, or other governmental charges;

(8) Investigation fee determined in accordance with section 1104(f) of the Act and § 298.15;

(9) Predelivery Vessel operating expenses, Vessel insurance premiums and other items which may not be properly capitalized by the owner as costs of the Vessel under GAAP;

(10) The cost of the condition survey required by § 298.11(f) and all work necessary to meet the standards set forth in that paragraph;

(11) The cost to the Shipowner of a Vessel which is to be reconstructed, or reconditioned, *e.g.,* cost of acquisition or repair work;

(12) Generally, any amount payable to the shipyard for early delivery of the Vessel;

(13) Generally, any amount payable to the manufacturer of the Shipyard Project for early delivery of the equipment to the General Shipyard Facility;

(14) Predelivery Shipyard Project expenses which may not be properly capitalized by the General Shipyard Facility as costs of the Shipyard Project under GAAP; and

(15) The cost of major foreign components and other foreign components for which there is no waiver and their assembly when comprising any part of the hull and superstructure of a Vessel.

(d) *Substantiation of Actual Cost.* (1) Before we make distribution from the Escrow Fund or Construction Fund (described in §§ 298.33 and 298.34), and prior to our final Actual Cost determination for each Vessel or Shipyard Project, you must submit to us documents substantiating all claimed costs eligible under paragraph (b) of this section or, alternatively, appropriate certification of such costs by an agent who has received our approval.

(2) These documents may include, but need not be limited to, copies of invoices, change orders, subcontracts, and where we require, statements from independent certified or independent licensed public accountants that the costs for which you seek payment or reimbursement were actually paid or are payable for the construction of a Vessel or Shipyard Project.

(3) You must summarize, index and arrange these documents according to cost categories by following the directions contained in our forms.

(e) *Escalation as part of Actual Cost.* Escalation clauses in construction contracts shall be subject to our approval. After a review of the base contract price and the escalation clauses, we shall, in order to estimate the Actual Cost amount to be stated in the Letter Commitment, add to the approved base contract price the amount of estimated escalation as approved by us. We must subsequently approve the amount of escalation cost you claimed as a component of Actual Cost.

(f) *Monies received in respect of construction.* (1) If you or any Person acting on your behalf, from time to time receives moneys due for construction of a Vessel or Shipyard Project (described in the Security Agreement) from the shipbuilder, guarantors, sureties or other Persons, you shall give us written notice of such fact.

(2) As long as we have not paid the Guarantees, you or other recipient shall promptly deposit these moneys in a Depository with a written notice that the Depository shall hold such moneys on deposit until it receives written instructions from us as to their disposition.

(3) We will determine the extent to which Actual Cost is to be reduced by these moneys.

(4) In no event shall Actual Cost be reduced with respect to payments by the shipyard to a Vessel or Shipyard Project owner of liquidated damages for late delivery of the Vessel or Shipyard Project .

(5) If we have paid the Guarantees, you or other recipient must promptly pay these moneys, including any liquidated damages, to us for deposit into the Maritime Guaranteed Loans account.

(g) *Depreciated Actual Cost.* After a Vessel or Shipyard Project has been delivered or redelivered (in the case of reconstruction or reconditioning), the limitation on the amount of Guarantees will be 75 or 87½ percent, whichever is applicable, of the Depreciated Actual Cost of the Vessel or Shipyard Project.

§ 298.22 Amortization of Obligations.

(a) Generally, after delivery or completion of Shipyard Project, and until maturity of the Obligations, provisions of the Trust Indenture or other part of the Documentation require you to make periodic payment of principal and interest on the Obligations.

(b) Usually, the payment of principal (amortization) shall be made semi-annually, but in no event, less frequently than on an annual basis, and in either case the amortization shall be in equal payments of principal (level principal), unless we consent to the periodic payment of a constant aggregate amount, comprised of both interest and principal components which are variable in amount (level payment). No other proposed method of amortization will be allowed which would reduce the amount of periodic amortization below that determined under the level principal or level

payment basis at any time prior to maturity of the Obligations, except where:

(1) You can demonstrate to our satisfaction that there will be adequate funds to discharge the Obligations at maturity;

(2)You establish a fund acceptable to us in which you deposit an equal annual amount necessary to redeem the outstanding Obligations at maturity; or

(3) With regard to Eligible Export Vessels, in accordance with such other terms as we determine to be more favorable and to be compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

§ 298.23 Refinancing.

(a) We may approve guarantees of Obligations to be secured by one or more Vessels or a Shipyard Project issued to refinance existing Title XI debt for either Vessels or for Shipyard Project and existing non-Title XI debt, so long as the existing debt has been previously issued for one of the purposes set forth in sections 1104(a)(1) through (4) of the Act. Section 1104 (a) (1) of the Act requires that, if the existing indebtedness was incurred more than one year after the delivery or redelivery of the related Vessel or Shipyard Project, the proceeds of such Obligations will be applied to the construction, reconstruction or reconditioning of other Vessels or Shipyard Project or as provided in § 298.24.

(b) We shall require any security lien on the Vessel(s) or Shipyard Project to be discharged immediately before we place a Mortgage or other security interest on any of the above assets. You must satisfy all necessary eligibility requirements as set forth in subpart B of this part, including economic soundness.

§ 298.24 Financing a Vessel more than a year after delivery.

(a) We may approve Guarantees for a Vessel which has been delivered (or redelivered in the case of reconstruction or reconditioning of a Vessel) more than one year prior to the issuance of the Guarantees only if:

(1) The issuance of the Guarantees would otherwise satisfy the requirements of the Act and the regulations in this part, and

(2) The proceeds of the Obligation financing such existing Vessel are used to finance:

(i) The construction, reconstruction, or reconditioning of a different Vessel within one year of that Vessel's delivery or redelivery, as the case may be, or

(ii) Facilities or equipment pertaining to marine operations. Such facilities or equipment must be of a specialized nature, used principally for servicing vessels and in handling waterborne cargo in the close proximity of the berthing area, excluding over-the-road equipment (other than chassis and containers), permanent or semipermanent structures and real estate, as well as new or less than one year old.

(b) At the Closing of Guarantees covered by this section, you must deposit the proceeds of the Obligation into an Escrow Fund established to pay for the cost unless you demonstrate to our satisfaction that all such costs have been paid.

§ 298.25 Excess interest or other consideration.

We shall not execute Guarantees if any agreement in the Documentation directly or indirectly provides for:

(a) The payment to an Obligee of interest, or other compensation for services which have not been performed, in a manner that such compensation or payment is being provided as interest in excess of the rate approved by us; or

(b) Grants of security to an Obligee in addition to the Guarantees.

§ 298.26 Lease payments.

You must obtain our approval of the amount and conditions of lease or charter hire payments if the payment of principal and interest on Obligations would be dependent, in any way, upon the lease or charter hire payments for a Vessel or Shipyard Project.

§ 298.27 Advances.

(a) *In general.* (1) In accordance with section 207 and Title XI of the Act, we have the discretion to make or commit to make an advance or payment of funds to, or on behalf of the owner, or operator or directly to any other person or entity for items, including, but not limited to:

(i) Principal,

(ii) Interest,

(iii) Insurance, and

(iv) Other vessel-related expenses or fees.

(2) We will make advances or payments only to protect, preserve or improve the collateral held as our security for Title XI debt.

(3) When requesting an advance, you must demonstrate that:

(i) Your problems are short term (less than two years) by using market and cash flow analysis and other projections.

(ii) An advance(s), would assist you over temporary difficulties; and

(iii) There is adequate collateral for the advance.

(b) *Filing requirements.* (1) You shall apply for an advance or other payment as early as is reasonably possible.

(2) *Principal and interest payments.* We must receive a request for an advance for principal and interest payments at least 30 days before the initial payment date.

(3) *Insurance payments.* We must receive a request for an advance of insurance payments at least 30 days before a renewal or termination date.

(4) *Extenuating circumstances.* We may consider requests for assistance with less notice, upon written documentation of extenuating circumstances.

(5) *Supporting data.* Any requests for assistance must be accompanied by supporting data regarding:

(i) Need for the advance,

(ii) Financial assistance you sought from other sources,

(iii) The measures that you are taking and have taken to alleviate the situation,

(iv) Financial projections,

(v) Proposed term of the repayment,

(vi) Current and projected market conditions,

(vii) Information on other available collateral,

(viii) Liens and other creditor information, and

(ix) Any other information which we may request.

Subpart D—Documentation

§ 298.30 Nature and content of Obligations.

(a) *Single page.* An Obligation, in the form of a note, bond of any type, or other debt instrument, when engraved, printed or lithographed on a single sheet of paper must include on its face the:

(1) Name of the Obligor,

(2) Principal sum,

(3) Rate of interest,

(4) Date of maturity, and

(5) Guarantee of the United States, authenticated by the Indenture Trustee, if any.

(b) *Several pages.* If the Obligation is typewritten, printed or reproduced by other means on several pages of paper, the Guarantee of the United States and the authentication certificate of the Indenture Trustee, if any, may appear at the end of the typewritten Obligation.

(c) *Rights and responsibilities.* The instrument which is evidence of indebtedness shall also contain all information necessary to apprise the Obligees of their rights and responsibilities including, but not limited to:

(1) Time and manner for payment of principal and interest,

(2) Redemptions,
(3) Default procedure, and
(4) Notification (in case of registered Obligations) of sale or other transfer of the instruments.

§ 298.31 Mortgage.

(a) *In general.* Under normal circumstances, a Guarantee shall not be endorsed on any Obligation until we receive satisfactory evidence that we hold a Mortgage in one or more Vessels or a Mortgage or other security interest in the Shipyard Project. During construction of a new Vessel or any Shipyard Project, a security interest may be perfected by a filing under the Uniform Commercial Code.

(b) *Ensuring validity of security interest.* In order to ensure that our Mortgages or other security interests are valid and enforceable, we shall require that the Obligor obtain legal opinions, in form and substance satisfactory to us, from independent, outside legal counsel satisfactory to us, including foreign independent outside legal Counsel for Eligible Export Vessels, which opinions shall state, among other things, that the Mortgage or other security interest(s) are valid and enforceable:

(1) In the country in which the Vessel is documented (or, in the case of a security interest, in jurisdictions acceptable to us);

(2) In the United States; and

(3) For vessels operating on specified trade routes, in the country or countries involved in this service, unless we determine that those destinations are too numerous, in which case, we will instead require an opinion of foreign validity and enforceability in the Vessel's primary port of operation.

(c) *Alternative forms of security.* In the case where a Mortgage or security interest on the financed assets may not be available or enforceable, we will require alternative forms of security.

(d) *Mortgage in our favor.* The Security Agreement shall provide that upon delivery of a new Vessel or upon final completion of the Shipyard Project, or at the time Guarantees are issued with respect to an existing Vessel or the Shipyard Project, a Mortgage on the Vessel and a Mortgage or other security interest on the Shipyard Project will be executed in our favor, unless we determine that a Mortgage or a security interest is not available or enforceable in accordance with paragraph (c) of this section.

(e) *Filing.* You must file the Mortgage with the United States Coast Guard's National Vessel Documentation Center. You must file the Mortgage for an Eligible Export Vessel with the proper foreign authorities. For assets of a General Shipyard Facility, you must file a Mortgage and security interest with the proper authorities within the appropriate state for recording. After you have recorded the Mortgage, you must deliver to us the Mortgage and evidence of the filing of the security interest.

(f) *Mortgage secured by multiple Vessels.* (1) When two or more Vessels are to be security for Guarantees, the Security Agreement may provide that one Mortgage relating to all the Vessels (Fleet Mortgage) shall be executed, perfected and delivered to us by the Obligor.

(2) If the Fleet Mortgage relates to undelivered Vessels, the Fleet Mortgage will be executed upon delivery of the first vessel. At the time of each subsequent Vessel delivery, the Obligor shall execute a supplement to the Fleet Mortgage which makes that Vessel subject to our Mortgage lien.

(3) The Fleet Mortgage shall provide that payment by the Obligor of the entire amount of Obligations covered or to be covered by Guarantees shall be required to discharge the Fleet Mortgage, regardless of the amount of the Secretary's Note or Notes issued and outstanding at the time of execution and delivery of the Fleet Mortgage or the number of Vessels covered by the Fleet Mortgage.

(4) The discharge date of the Fleet Mortgage shall be the maturity date of the Secretary's Note. We may require, as authorized by section 1104(c)(2) of the Act, such payments of principal prior to maturity (redemptions), regarding all related Obligations, as deemed necessary to maintain adequate security for the Guarantees.

(5) Each Fleet Mortgage shall provide that in the event of constructive total loss, requisition of title or sale of any Vessel covered by the Fleet Mortgage, indebtedness represented by the Obligations shall be paid, unless we otherwise determine that there remains adequate security for the Guarantees, and the Vessel shall be discharged from the Mortgage lien.

(g) Adequacy of collateral. (1) Under normal circumstances, a First Preferred Mortgage on the Vessel(s) or Shipyard Project will be adequate security for the Guarantees.

(2) If, however, we determine that the Mortgage on the Vessel(s) or Shipyard Project is not sufficient to provide adequate security, as a condition to approving the Letter Commitment or processing the application, we may require additional collateral, such as a mortgage(s) on other vessel(s) or Shipyard Project or on other assets, special escrow funds, pledges of stock, charters, contracts, notes, letters of credit, accounts receivable assignments, and guarantees.

§ 298.32 Required provisions in documentation.

(a) Performance under shipyard and related contracts. Generally, shipyard and related contracts must contain provisions for:

(1) Furnishing by the shipyard or contractor of the Shipyard Project of satisfactory insurance and a satisfactory performance bond where Obligations are issued during the construction period, except that if the shipyard or contractor of the Shipyard Project demonstrates to our satisfaction that it has sufficient financial resources and operational capacity to complete the project, posting of a bond will not be required;

(2) Allowing access to the Vessel or Shipyard Project, as well as all related work projects being performed by the contractor and subcontractors, to our representative, at all reasonable times, to inspect performance of the work and to observe trials and other tests for the purpose of determining that the Vessel or Shipyard Project is being constructed, reconstructed, or reconditioned in accordance with contract plans and specifications approved by us;

(3) Submitting to us, upon request, one set of shipyard plans, in form and substance satisfactory to us, for the Vessel or Shipyard Project as built;

(4) Making periodic payments for the work in accordance with an agreed schedule, submitted by the shipyard or contractor, as appropriate, in a form acceptable to us, based on percentage of completion, after such percentage and satisfactory performance are certified by the Obligor, shipyard or contractor, as appropriate, and our representative as to each payment;

(5) Prohibiting the use of proceeds from the sale of Obligations for the payment of work performed outside the shipyard, unless we consent in writing to such use; and

(6) Requiring that all components of the hull and superstructure of a U.S.-documented Vessel and an Eligible Export Vessel shall be assembled in the United States.

(7) If Obligation will not be issued during the construction period of the Vessel and Shipyard Project, requiring that shipyard-related contracts shall generally include the provisions specified in paragraphs (a)(2), (a)(3) and (a)(6) of this section.

(b) *Assignments and general covenants from Obligor to us.* The Obligor shall assign rights and shall covenant with us, as we require,

including, but not limited to, the following:

(1) Assignment of all or part of the right, title and interest under the construction contract and related contracts, except those rights expressly reserved therein by the Obligor relating to such things as patent infringement and liquidated damages;

(2) Assignment of rights to receive all moneys which from time to time become due regarding Vessel or Shipyard Project construction;

(3) Assignment, where applicable, of all or a part of the bareboat charter, time charter, contracts of affreightment or other agreements relating to the use of the Vessel or Shipyard Project and all hire payable to the Obligor, and delivery to us of required consents by appropriate parties to any such assignments;

(4) Covenants relating to the filing of satisfactory evidence of continuing United States citizenship, in accordance with 46 CFR part 355, with the exception of Eligible Export Vessels and shipyards with Shipyard Projects; warranty of Vessel or Shipyard Project title free from all liens other than those specifically excepted; maintaining United States documentation of the Vessel or documentation under the laws of a country other than the United States with regard to an Eligible Export Vessel; compliance with the provisions of 46 U.S.C. 31301–31343, except that Eligible Export Vessels shall comply with the definition of a ''preferred mortgage'' in 46 U.S.C. 31301(6)(B), requiring, among other things, that the Mortgage shall comply with the mortgage laws of the foreign country where the Vessel is documented and shall have been registered under those laws in a public register; Notice of Mortgage, payment of all taxes (except if being contested in good faith); annual financial statements audited by independent certified or independent licensed public accountant.

(5) Covenants to keep records of construction costs paid by or for the Obligor's account and to furnish us with a detailed statement of those costs, distinguishing between:

(i) Items paid or obligated to be paid, attested to by independent certified public accountants unless otherwise verified by us; and

(ii) Costs of American and foreign materials (including services) in the hull and superstructure.

(6) Covenants to maintain Marine and War Risk Hull and Machinery insurance on the Vessel or Eligible Export Vessel in an amount equal to 110% of the outstanding Obligations or up to the full commercial value of the Vessel or Eligible Export Vessel, whichever is greater; Marine and War Risk Protection and Indemnity insurance; Interim War Risk Binders for Hull and Machinery, and Protection and Indemnity coverages underwritten by us as authorized by Title XII of the Act; and such additional insurance as may be required by us. All insurance required to be maintained shall be placed with the United States Government and American and/or British (and/or other foreign, if permitted by us by prior written notice) insurance companies, underwriters' associations or underwriting funds approved by us through marine insurance brokers and/or underwriting agents approved by us. All insurance required to be maintained shall be placed under the latest (at the time of issue) forms of American Institute of Marine Underwriters policies approved by us and/or under such other forms of policies which we may approve in writing and/or policies issued by or for us insuring the Vessel or Eligible Export Vessel against the usual risks provided for under such forms, including such amounts of increase value or other forms of ''that total loss only'' insurance permitted by the Hull and Machinery insurance policies;

(7) Collateralize other debt due to us under other Title XI financings;

(8) Covenants to maintain shipyard insurance on the Shipyard Project in an amount equal to 110% of the outstanding Obligations or up to the full commercial value of the Shipyard Project, whichever is greater, and such additional insurance as may be required by us; and

(9) Covenants to maintain additional types of insurance as may be required by us with respect to Eligible Export Vessels, *i.e.* political risk insurance, to cover such items as the political, financial, and/or economic risk in a foreign country.

§ 298.33 Escrow fund.

(a) *Escrow Fund Deposits.* At the time of the sale of the Obligations, the Obligor shall deposit with us in an escrow fund (the ''Escrow Fund'') all of the proceeds of that sale unless the Obligor is entitled to withdraw funds under paragraph (b) of this section. The Obligor must also deposit into the Escrow Fund on the Closing date an amount equal to six months interest at the rate borne by the Obligations, unless we find the existence of adequate consideration or accept other consideration in lieu of the interest deposit.

(b) *Escrow Fund Withdrawals.* You, as Obligor, may make a written request for us to disburse funds from the Escrow Fund. Within a reasonable time thereafter, we shall disburse directly to the Indenture Trustee, any Paying Agent for such Obligations, or any other Person entitled to payment any amount which you are obligated to pay or have paid, on account of the items and amounts or any other item approved by us, provided that we are satisfied with the accuracy and completeness of the information contained in the following submissions:

(1) A responsible officer of the Obligor shall deliver an officer's certificate, in form and substance satisfactory to us, stating that:

(i) There is no default under the construction contract or the Security Agreement;

(ii) There have been no occurrences which have or would adversely and materially affect the condition of the Vessel, its hull or any of its component parts, or the Shipyard Project;

(iii) The amounts of the request are in accordance with the construction contract including the approved disbursement schedule and each item in these amounts is properly included in our approved estimate of Actual Cost;

(iv) With respect to the request, once the contractor is paid there will be no liens or encumbrances on the applicable Vessel, its hull or component parts, or the Shipyard Project for which the withdrawal is being requested except for those already approved by us; and

(v) If the Vessel or Shipyard Project has already been delivered or completed, it is in class, if required, and is being maintained in the highest and best condition. The Obligor must also attach an officer's certificate of the shipyard and other general contractors, in form and substance satisfactory to us, stating that there are no liens or encumbrances as provided in paragraph (b)(1)(iv) of this section and attaching the invoices and receipts supporting each proposed withdrawal to our satisfaction.

(2) No payment or reimbursement under this section shall be made:

(i) To any Person until the Construction Fund, if any, has been exhausted,

(ii) To any Person until the total amount paid by or for the account of the Obligor from sources other than the proceeds of such Obligations equals at least 12½ percent or 25 percent as applicable, of the Actual Cost of the Vessel or Shipyard Project is made;

(iii) To the Obligor which would have the effect of reducing the total amounts paid by the Obligor pursuant to paragraph (b)(2)(ii) of this section; or

(iv) To any Person on account of items, amounts or increases

representing changes and extras or owner furnished equipment, if any, unless such items, amounts and increases shall have been previously approved by us; provided, however, that when the amount guaranteed by us equals 75 percent or less of the Actual Cost and the Obligor demonstrates to our satisfaction the ability to pay in the remaining 25 percent, or more, then after the initial 12½ percent of Actual Cost has been paid by or on behalf of the Obligor for such Vessel or completed Shipyard Project and up to 37½ percent of Actual Cost has been withdrawn from the Escrow Fund for such Vessel or Shipyard Project, the Obligor must pay the remaining Obligor's equity of at least 12½ percent (as determined by us) before additional monies can be withdrawn from the Escrow Fund relating to such Vessel or Shipyard Project.

(3) We will not be required to make any disbursement except out of the cash available in the Escrow Fund. If any sale or payment on maturity results in a loss in the principal amount of the Escrow Fund invested in securities so sold or matured, the requested disbursement from the Escrow Fund shall be reduced by an amount equal to such loss, and the Obligor must pay to any Person entitled thereto, the balance of the requested disbursement from the Obligor's funds other than the proceeds of such Obligations.

(4) If we assume the Obligor's rights and duties under the Obligations or we pay the Guarantees, all amounts in the Escrow Fund (including realized income which has not yet been paid to the Obligor), shall be paid to us and be credited against any amounts due or to become due to us under the Security Agreement and the Secretary's Note.

(5) Other rights and duties with respect to withdrawals from the Escrow Fund shall be set out in the closing documentation in form and substance satisfactory to us.

(c) *Investment and liquidation of the Escrow Fund.* We may invest the Escrow Fund in obligations of the United States. We will deposit amounts in the Escrow Fund into an account with the U.S. Treasury Department and upon agreement with the Obligor, shall deliver to the U.S. Treasury Department instructions for the investment, reinvestment and liquidation of the Escrow Fund. We will have no liability to the Obligor for acting in accordance with such instructions.

(d) *Income on the Escrow Fund.* Unless there is an existing default, any income realized on the Escrow Fund shall be paid to the Obligor upon our receipt of such income.

(e) *Termination date of the Escrow Fund.* The Escrow Fund shall terminate 90 days after the delivery date of the last Vessel or Shipyard Project covered by the Security Agreement (the ''Termination Date''). In the event that on such date the payment of the full amount of the aggregate Actual Cost of all of the Vessels or Shipyard Project has not been made or the amounts with respect to such Actual Cost are not then due and payable, then we and the Obligor by written agreement shall extend the Termination Date for such period as we and the Obligor shall determine is sufficient to allow for such contingencies. Any amounts remaining in the Escrow Fund on the Termination Date which are in excess of 87½ percent or 75 percent of Actual Cost, as the case may be, shall be applied to retire a pro rata portion of the Obligations.

§ 298.34 Construction fund.

(a) *Circumstances requiring deposits.* (1) When the Security Agreement provides for the establishment of an Escrow Fund, the Obligor shall also make Construction Fund deposits when the Obligor:

(i) Submits a claim to the agency that it has previously paid for items of Actual Cost and

(ii) Is seeking reimbursement at the Closing.

(2) The Obligor shall make the Construction Fund deposits as follows:

(i) At the time of the sale of the Obligations, the Obligor shall deposit with the Depository cash equal to the principal amount of the Obligations issued at such time less the sum of the aggregate principal amount then required to be in the Escrow Fund, and

(ii) The amount in excess of 12½ or 25 percent of Actual Cost or Depreciated Actual Cost, as applicable (whichever is payable under § 298.33(b) which we determine has been paid by or for the account of the Obligor.

(b) *Security interest and control.* We must have a security interest in and control over the Construction Fund and its proceeds.

(c) *Balance of the proceeds.* The Obligor will retain the balance of the proceeds, if any, from the sale of the Obligations, after depositing the amounts required to be deposited in the Escrow Fund and/or the Construction Fund.

(d) *Withdrawals and redeposits.* We shall, subject to the satisfaction of any applicable conditions contained in the Security Agreement, periodically approve disbursements from the Construction Fund under the same procedures and conditions as from the Escrow Fund in § 298.33(b), except the request for withdrawal will not be subject to § 298.33(b)(2)(i) and (e). The administration of the Construction Fund shall also be subject to the terms and conditions of § 298.33.

§ 298.35 Title XI Reserve Fund and Financial Agreement.

(a) *Purpose.* In order to provide us with further security and to ensure payment of the interest and principal due on the Obligations, we will require the Company to enter into a Title XI Reserve Fund and Financial Agreement (Agreement) at the first Closing at which the Company issues Obligations. We may waive or modify provisions of the Agreement based on our evaluation of the aggregate security for the Guarantees.

(b) *Financial covenants.* There will be two sets of covenants. One set of covenants will be imposed regardless of the Company's financial condition (primary covenants). The other set of covenants will be imposed only if the Company does not meet specific financial conditions (supplemental covenants). The primary and supplemental covenants are to be set forth in the Agreement. Covenants shall be imposed on the Company as follows:

(1) *Primary covenants.* So long as Guarantees are in effect the Company shall not, without our prior written consent:

(i) Make any distribution of earnings, except as may be permitted as follows:

(A) From retained earnings in an amount specified in paragraph (b)(1)(i)(C) of this section, provided that, in the fiscal year in which the distribution of earnings is made there is no operating loss to the date of such payment of such distribution of earnings, and there was no operating loss in the immediately preceding three fiscal years, or there was a one-year operating loss during the immediately preceding three fiscal years, but such loss was not in the immediately preceding fiscal year, and there was positive net income for the three year period;

(B) If distributions of earnings may not be made under paragraph (b)(1)(i)(A) of this section, a distribution can be made in an amount equal to the total operating net income for the immediately preceding three fiscal year period, provided that:

(*1*) There were no two successive years of operating losses;

(*2*) There is no operating loss to the date of such distribution in the fiscal year in which such distribution is made; and

(*3*) The distribution of earnings made would not exceed an amount specified in paragraph (b)(1)(i)(C) of this section;

(C) Distributions of earnings may be made from earnings of prior years in an aggregate amount equal to 40 percent of the Company's total net income after tax for each of the prior years, less any distributions that were made in such years; or the aggregate of the Company's total net income after tax for such prior years, provided that, after making such distribution, the Company's Long-Term Debt does not exceed its Net Worth. In computing net income for purposes of this paragraph (b)(1)(i)(C), extraordinary gains, such as gains from the sale of assets, will be excluded;

(ii) Enter into any service, management or operating agreement for the operation of the Vessel or the Shipyard Project (excluding husbanding type agreements), or appoint or designate a managing or operating agent for the operation of the Vessel or the Shipyard Project (excluding husbanding agents) unless approved by us;

(iii) Sell, mortgage, transfer, or demise charter the Vessel or the Shipyard Project or any assets to any non-Related Party except as permitted in paragraph (b)(1)(vii) of this section or sell, mortgage, transfer, or demise charter the Vessel or any assets to a Related Party, unless such transaction is at a fair market value as determined by an independent appraiser acceptable to us, and is a total cash transaction;

(iv) Enter into any agreement for both sale and leaseback of the same assets so sold unless the proceeds from such sale are at least equal to the fair market value of the property sold;

(v) Guarantee, or otherwise become liable for the obligations of any other Person, except with respect to any undertakings as to the fees and expenses of the Indenture Trustee, except endorsement for deposit of checks and other negotiable instruments acquired in the ordinary course of business and except as otherwise permitted in this section;

(vi) Directly or indirectly embark on any new enterprise or business activity not directly connected with the business of shipping or other activity in which the Company is actively engaged;

(vii) Enter into any merger or consolidation or convey, sell, demise charter, or otherwise transfer, or dispose of any portion of its properties or assets (any and all of which acts are encompassed within the words ''sale'' or ''sold'' as used in this section), provided that, the Company will not be deemed to have sold such properties or assets if the net book value of the aggregate of all the assets sold by the Company during any period of 12 consecutive calendar months does not exceed ten percent of the total net book value of all of the Company's assets; the Company retains the proceeds of the sale of assets for use in accordance with the Company's regular business activities; and the sale is not otherwise prohibited by paragraph (b)(1)(iii) of this section. The Company may not consummate such sale without our prior written consent if the Company has not, prior to the time of such sale, submitted to us, as required, its most recently audited financial statements referred to in § 298.42(a) and any attempt to consummate a sale absent such approval will be null and void *ab initio.*

(2) *Supplemental Covenants which may become applicable.* Unless, after giving effect to such transaction or transactions, during any fiscal year of the Company, the Company's Working Capital is equal to at least one dollar, the Company's Long-Term Debt does not exceed two times the Company's Net Worth and the Company's Net Worth is at least the amount specified by us, the Company shall not, without our prior written consent:

(i) Withdraw any capital;

(ii) Redeem any share capital or convert any of the same into debt;

(iii) Pay any dividend (except dividends payable in capital stock of the Company);

(iv) Make any loan or advance (except advances to cover current expenses of the Company), either directly or indirectly, to any stockholder, director, officer, or employee of the Company, or to any other Related Party;

(v) Make any investments in the securities of any Related Party;

(vi) Prepay in whole or in part any indebtedness to any stockholder, director, officer, or employee of the Company, or to any Related Party, which has a stated maturity of more than one year from such date;

(vii) Increase any direct employee compensation (as defined in this paragraph) paid to any employee in excess of $100,000 per annum; nor increase any direct employee compensation which is already in excess of $100,000 per annum; nor initially employ or re-employ any person at a direct employee compensation rate in excess of $100,000 per annum; provided, however, that beginning with January 1, 2000 the $100,000 limit may be increased annually based on the previous years' closing Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics. For the purpose of this paragraph, the term ''direct employee compensation'' is the total amount of any wage, salary, bonus commission, or other form of direct payment to any employee from all companies with guarantees under the Act as reported to the Internal Revenue Service for any fiscal year.

(viii) Acquire any fixed assets other than those required for the maintenance of the Company's existing assets, including normal maintenance and operation of any vessel or vessels owned or chartered by the Company;

(ix) Either enter into or become liable (directly or indirectly) under charters and leases (having a term of six months or more) for the payment of charter hire and rent on all such charters and leases which have annual payments aggregating in excess of an amount specified by us;

(x) Pay any indebtedness subordinated to the Obligations or to any other Title XI obligations;

(xi) Create, assume, incur, or in any manner become liable for any indebtedness, except current liabilities, or short term loans, incurred or assumed in the ordinary course of business as such business presently exists;

(xii) Make any investment whether by acquisition of stock or indebtedness, or by loan, advance, transfer of property, capital contribution, guarantee of indebtedness or otherwise, in any Person, other than obligations of the United States, bank deposits or investments in securities of the character permitted for monies in the Title XI Reserve Fund; and,

(xiii) Create, assume, permit or suffer to exist or continue any mortgage, lien, charge or encumbrance upon, or pledge of, or subject to the prior payment of any indebtedness, any of its property or assets, real or personal, tangible or intangible, whether now owned or thereafter acquired, or own or acquire, or agree to acquire, title to any property of any kind subject to or upon a chattel mortgage or conditional sales agreement or other title retention agreement, except loans, mortgages and indebtedness guaranteed by us under Title XI of the Act or related to the construction of a vessel approved for Title XI by us, and liens incurred in the ordinary course of business as such business presently exists.

(c) *Title XI Reserve Fund Net Income.* The Agreement shall provide that within 105 days after the end of its accounting year, the Company will compute its net income attributable to the operation of the Vessel(s) that were constructed, reconstructed, reconditioned or refinanced with Title XI financing assistance (Title XI Reserve Fund Net Income). The computation utilizes a ratio expressed as a

percentage, and applies this percentage to the Company's total net income after taxes. The numerator of the ratio is be the total original capitalized cost of all Company Vessels (whether leased or owned) which were constructed, reconstructed, reconditioned or refinanced with the assistance of Guarantees. The denominator shall be the total original capitalized cost of all the Company's fixed assets. In the case of Shipyard Project, the Agreement shall provide that within 105 days after the end of its accounting year, the Company shall submit its audited financial statements showing its net cash flow in a manner acceptable to us, in lieu of any other computation of Reserve Fund Net Income specified in this section for Vessels. The net income after taxes, computed in accordance with GAAP, will be adjusted as follows:

(1) The depreciation expense applicable to the accounting year shall be added back.

(2) There shall be subtracted:

(i) An amount equal to the principal amount of debt required to be paid or redeemed, and actually paid or redeemed by the Company (other than from the Title XI Reserve Fund) during the year; and

(ii) The principal amount of Obligations retired or paid (as defined in the Security Agreement), prepaid or redeemed, in excess of the required redemptions or payments which may be used by the Company as a credit against future required redemptions or other required payments with respect to the Obligations.

(d) *Deposits.* Unless the Company, as of the close of its accounting year, was subject to and in compliance with the financial requirements set forth in paragraph (b)(2) of this section, the Company shall make one or more deposits to a special joint depository account with us (the Title XI Reserve Fund) to be established pursuant to an agreement in writing (Depository Agreement) at the time the first deposit is required to be made. The amount of deposit as to any year, or period less than a full year, where applicable, will be determined as follows:

(1) Fifty percent of the Title XI Reserve Fund Net Income, less an amount equal to 10% of the Company's total original equity investment in the Vessel or Vessels, (if the Company is the owner of the assets), will be deposited into the Title XI Reserve Fund.

(2) In the case of Shipyard Project, the shipyard shall make a deposit at two percent of its net cash flow, as defined by GAAP, and as shown on its audited financial statements.

(3) Any additional amounts that may be required pursuant to the Security Agreement or any other agreement in the documentation to which the Company is a party.

(4) Any additional amounts that may be required, pursuant to provisions of the Security Agreement or any other agreement in the documentation to which the Company is a party.

(5) Irrespective of the Company's deposit requirement, as stated in paragraphs (d) (1) through (4) of this section, the Company will not be required to make any deposits into the Title XI Reserve Fund if any of the following events will have occurred:

(i) The Company will have discharged the Obligations and related Secretary's Note and will have paid other sums secured under the Security Agreement and Preferred Mortgage;

(ii) All Guarantees with respect to outstanding Obligations will have terminated pursuant to the provisions of the Security Agreements, other than by reason of payment of the Guarantees; or

(iii) The amount in the Title XI Reserve Fund, (including any securities at market value), is equal to, or in excess of 50 percent of the principal amount of outstanding Obligations.

(e) *Fund in lieu of Title XI Reserve Fund.* If the Company has established a Capital Construction Fund (CCF), pursuant to section 607 of the Act, whether interim or permanent, at any time when a deposit would otherwise be required to be made into the Title XI Reserve Fund, and the Company elects to make such deposits to the CCF, the Company must enter into an agreement, satisfactory to us, providing that all such deposits of assets therein will be security (CCF Security Amount) to the United States in lieu of the Title XI Reserve Fund. The deposit requirements of the Title XI Reserve Fund and Financial Agreement will be deemed satisfied by deposits of equal amounts in the CCF, and withdrawal of the CCF Security Amount will be subject to our prior written consent. If, for any reason, the CCF terminates prior to the payment of the Obligations, the Secretary's Note and all other amounts due under or secured by the Security Agreement or Mortgage, the CCF Security Amount will be deposited or redeposited in the Title XI Reserve Fund.

§ 298.36 Guarantee Fee.

(a) *Rates in general.* (1) For annual periods, beginning with the date of the Security Agreement and prior to the delivery date of a Vessel or Shipyard Project, we shall charge a Guarantee Fee set at a rate of not less than ¼ of 1 percent and not more than ½ of 1 percent of the excess of the average principal amount of the Obligations estimated to be outstanding during the annual periods covered by said Guarantee Fee over the average principal amount, if any, on deposit in the Escrow Fund during said annual period (Average Principal Amount of Obligations Outstanding).

(2) For annual periods beginning with the delivery date of a Vessel or Shipyard Project, the Guarantee Fee shall be set at an annual rate of not less than ½ of 1 percent and not more than 1 percent of the Average Principal Amount of Obligations Outstanding during the annual periods covered by the Guarantee Fee. You will be responsible for payment of the Guarantee Fee.

(b) *Rate calculation.* (1) The Guarantee Fee rate generally shall vary inversely with the ratio of Equity to Long-Term Debt (Variable Rate) of the Person who we consider to be the primary source of credit in the transaction (Credit Source), for example,

(i) The long term time charterer (where the charter hire represents the source of payment of interest and principal with respect to the Obligations),

(ii) The guarantor of the Obligations,

(iii) The Obligor, or

(iv) The bareboat charterer.

(2) Where the Variable Rate is used, we may make such adjustments to the computation of Equity and Long-Term Debt considered necessary to reflect more accurately the financial condition of the Credit Source.

(3) We shall base our determination of Equity and Long-Term Debt on information contained in forms or statements on file with us prior to the date on which the Guarantee Fee is to be paid.

(4) With our consent, you may include in Equity and exclude from Long-Term Debt, any subordinated indebtedness representing loans from any credit source.

(5) We may establish a fixed rate or other method of calculation of the Guarantee Fee, upon an evaluation of the aggregate security for the Guarantees.

(c) *Variable Rate prior to Vessel or Shipyard Project.* For annual periods beginning prior to the delivery date of a Vessel or Shipyard Project being constructed, reconstructed, or reconditioned, the Guarantee Fee shall be determined as follows:

(1) If the Equity is less than 15 percent of the Long-Term Debt, the Guarantee Fee rate shall be ½ of 1 percent of the Average Principal Amount of Obligations Outstanding during the

annual period covered by the Guarantee Fee.

(2) If the Equity is at least 15 percent of the Long-Term Debt, but less than the Long-Term Debt, the Guarantee Fee rate shall be ⅜ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(3) If the Equity is equal to or exceeds the Long-Term Debt, the Guarantee Fee rate shall be ¼ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(d) *Variable Rate after Vessel or Shipyard Project delivery or completion.* For annual periods beginning on or after the Vessel or Shipyard Project delivery date, the Guarantee Fee shall be determined as follows:

(1) If the Equity is less than 15 percent of the Long-Term Debt, the Guarantee Fee rate shall be 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(2) If the Equity is at least 15 percent of the Long-Term Debt but less than 60 percent of the Long-Term Debt, the Guarantee Fee rate shall be ¾ of 1 percent of the Average Principal Amount of Obligations Outstanding during the annual period covered by the Guarantee Fee.

(3) If the Equity is at least 60 percent of the Long-Term Debt, but less than the Long-Term Debt, the Guarantee Fee rate shall be ⅝ of 1 percent of the Average Principal Amount of Obligations outstanding during the annual period covered by the Guarantee Fee.

(4) If the Equity is equal to or exceeds the Long-Term Debt, the Guarantee Fee rate shall be ½ of 1 percent of the Average Principal Amount of Obligations outstanding during the annual period covered by the Guarantee Fee.

(e) *Payment of Guarantee Fee.* (1) The Guarantee Fee covering the full period of the stated maturity of the Obligations commencing with the date of the Security Agreement shall be paid to us concurrently with the execution and delivery of said Agreement. The project's entire Guarantee Fee payment shall be made by you to us in an amount equal to the sum of the present value of the separate products obtained by applying the pertinent pre or post delivery Guarantee Fee rate or rates to the projected amount of the Average Principal Amount of Obligations Outstanding for each year of the stated maturity of the Obligations. In calculating the present value used in determining the amount of the Guarantee Fee to be paid, we shall use a discount rate based on information contained in the President's most recently submitted budget.

(2) The Guarantee Fee may be included in Actual Cost, is eligible to be financed, and is non-refundable.

(f) *Proration of Guarantee Fee.* The Guarantee Fee shall be prorated where a Vessel delivery is scheduled to occur during the annual period with respect to which payment of said Guarantee Fee is being made, as follows:

(1) Undelivered Vessel. If the Guarantee Fee relates to an undelivered Vessel, the predelivery rate is applicable to the Average Principal Amount of Obligations Outstanding for the period from the date of the Security Agreement to the delivery date, and the delivered Vessel rate is applicable for the balance of the annual period in which the delivery occurs.

(2) Multiple Vessels. If the Guarantee Fee relates to more than one Vessel, the amount of outstanding Obligations will be allocated to each Vessel in the manner prescribed in § 298.33(d), and an amount shall be determined for each Vessel by using the rate that is applicable under paragraph (c) or (d) of this section. The Guarantee Fee shall be the aggregate of the amounts calculated for each Vessel.

§ 298.37 Examination and audit.

(a)(1) We shall have the right to examine and audit the books, records (including original logs, cargo manifests and similar records) and books of account, which pertain directly to the project, of the Obligor, bareboat charterer, time charterer or any other Person who has an agreement with respect to control of, or a financial interest in, a Vessel or Shipyard Project, as well as records of a Related Party and domestic agents connected with such Persons, and shall have full, free and complete access to these items at all reasonable times.

(2) We shall have the right to full, free and complete access, at all reasonable times, to each Vessel or Shipyard Project for which Guarantees are in force.

(3) When a Vessel is in port or undergoing repairs, we may make photostatic or other copies of any books, records and other relevant documents or papers being examined or audited.

(b) The Person in control of the premises where we conduct the examination or audit must furnish, without charge, adequate office space and other facilities that we reasonably require in performing the examination, audit or inspection.

§ 298.38 Partnership agreements and limited liability company agreements.

Partnership and limited liability company agreements must be in form and substance satisfactory to us prior to any Guarantee Closing, especially relating, but not limited to:

(a) Duration of the entity;

(b) Adequate partnership or limited liability company funding requirements and mechanisms;

(c) Dissolution of the entity and withdrawal of a general partner or member;

(d) The termination, amendment, or other modification of the entity without our prior written consent; and

(e) Distribution of funds or ownership interest.

§ 298.39 Exemptions.

We may exempt an applicant from any requirement of this part, unless required by statute or other regulations, in exceptional cases, on written findings that:

(a) The case materially involves factors not considered in the promulgation of this part;

(b)(1) A national emergency makes it necessary to approve the exemption, or

(2) The exemption will substantially relieve the financial liability of the United States;

(c) The exemption will not substantially impact effective regulation of the Title XI program, consistent with the objectives of this part;

(d) The exemption will not be unjustly discriminatory; and

(e) For Eligible Export Vessels, such exemption would assist in creating financing terms that would be compatible with export credit terms for the sale of vessels built in shipyards other than those in the United States.

Subpart E—Defaults and Remedies, Reporting Requirements, Applicability of Regulations

§ 298.40 Defaults.

(a) *In General.* Provisions concerning the existence and declaration of a default and demand for payment of the Obligations (described in paragraphs (b) and (c) of this section) shall be included in the Security Agreement and in other parts of the Documentation.

(b) *Principal and interest Payment Default.* Unless we have assumed the Obligor's rights and duties under the Obligation and agreements and have made any payments in default under terms in the Obligation or related agreements, the following procedures regarding principal and interest payment default shall apply:

(1) No demand shall be made for payment under the Guarantees unless

the default shall have continued for 30 days (Payment Default).

(2) After the expiration of said 30-day period, demand for payment of all amounts due under the Guarantees must be made no later than 60 days afterward.

(3) After demand for payment is made by or on behalf of the Obligees, we shall make payment under the Guarantees, except if we determine that a Payment Default has not occurred or that such Payment Default has been remedied prior to demand being made.

(c) *Security Default.* If a default occurs under the Security Agreement which is other than a Payment Default (Security Default), section 1105(b) of the Act allows us, in our sole discretion, to declare such default a Security Default, and we may notify the Obligee or agent of the Obligee of such Security Default, stating that demand for payment under the Guarantees must be made no later than 60 days after the date of such notification.

(d) *Payment of Guarantees.* If we receive notice of demand for payment of the Guarantees, we shall, no later than 30 days after the date of such demand (provided that we shall not have, upon such terms as may be provided in the Obligations or related agreements, prior to that demand, assumed the Obligor's rights and duties under the Obligation and agreements and shall have made any payments in default), make payment to the Obligees, Indenture Trustee or any other agent of the unpaid principal amount of Obligations and unpaid interest accrued and accruing thereon up to, but not including, the date of payment.

§ 298.41 Remedies after default.

(a) *In general.* The Security Agreement or other parts of the Documentation shall include provisions governing remedies after a default, which relate to our rights and duties, the rights and duties of the Obligor, and other appropriate Persons.

(b) *Action by the Secretary.* (1) We may take the Vessel or Shipyard Project and hold, lease, charter, operate or use the Vessel or Shipyard Project, accounting only for the net profits to the Obligor after a default has occurred and is continuing and before making payment required under the Guarantees.

(2) After making payment required under the Guarantees, we may initiate or otherwise participate in legal proceedings of every type, or take any other action considered appropriate, to protect rights and interests granted to us under:

(i) Sections 1105(c), 1105(e) and 1108(b) of the Act,

(ii) The Security Agreement,

(iii) Other applicable provisions of law, and

(iv) The Documentation.

(c) *Security proceeds to Secretary.* Our interest in proceeds realized from the disposition of or collection regarding the security granted to us in consideration for the Guarantees (except all proceeds from the sale, requisition, charter or other disposition of property purchased by us at a foreclosure or other public sale, which proceeds shall belong to and vest exclusively in us), shall be an amount equal to, but not in excess of, the sum of (in order of priority of application of the proceeds):

(1) All moneys due and unpaid and secured by the Mortgage or Security Agreement;

(2) All advances, including interest thereon, by us, under the Security Agreement and all our reasonable charges and expenses;

(3) The accrued and unpaid interest on the Secretary's Note;

(4) The accrued and unpaid balance of the principal of the Secretary's Note; and

(5) To the extent of any collaterization by the Obligor of other debt due to us from the Obligor under other Title XI financings, such other Title XI debt.

(d) *Security proceeds to Obligor.* You shall be entitled to the proceeds from the sale or other disposition of security, described in paragraph (c) of this section, if and to the extent that the proceeds realized are in excess of the amounts described in paragraphs (c)(1) through (5) of this section.

§ 298.42 Reporting requirements—financial statements.

(a) *In general.* The financial statements of the Company shall be audited at least annually, in accordance with generally accepted auditing standards, by independent certified public accountants licensed to practice by the regulatory authority of a State or other political subdivision of the United States or, licensed public accountants licensed to practice by the regulatory authority or other political subdivision of the United States on or before December 31, 1970.

(b) *Eligible Export Vessels.* In the case of Eligible Export Vessels, the accounts of the Company shall be audited at least annually, and unless otherwise agreed to by us, we shall require that the financial statements be in accordance with generally accepted accounting principles, by accountants as described in paragraph (a) of this section or by independent public accountants licensed to practice by the regulatory authority or other political subdivision of a foreign country, provided such accountants are satisfactory to us. The accountants performing such audits may be the regular auditors of the Company.

(c) *Reports of Company and other Persons.* Except as we require otherwise, the Company must file a semiannual financial report and an annual financial report, prepared in accordance with generally accepted accounting principles, with us as specified in the Documentation. You must include:

(1) The balance sheet and a statement of paid-in-capital and retained earnings at the close of the required reporting period,

(2) A statement of income for the period, and

(3) Any other statement that we consider necessary to accurately reflect the Company's financial condition and the results of its operations.

(d) *Required form.* We will specify in a letter to the Company the form required for reporting and the number of copies that you must submit

(e) *Other Persons.* We may after providing the Company notice, also require the Company to submit financial statements of any other Person, directly or indirectly participating in the project, if the financial condition of that Person affects our security for the Guarantees.

(f) *Timeliness.* The required financial report for the annual period will be due within 105 days after the close of each fiscal year of the Company, commencing with the first fiscal year ending after the date of the Security Agreement. The required semiannual report will be due within 105 days after each semiannual period, commencing with the first semiannual period ending after the date of the Security Agreement.

(g) Public accountant's report. The annual report will be accompanied by the public accountant's report based on an audit of the company's financial statements. We may require an audit by the public accountants of the financial statements contained in the company's semiannual report. We also may require certification of the semiannual report by the accountants. Where independent certification is not required, a responsible corporate officer will attach a certification that such report is based on the accounting records and, to the best of that officer's knowledge and belief, is accurate and complete.

(h) *Leveraged lease financing.* If the method of financing involved is a leveraged lease financing, or a trust is the owner of the Vessels, we may modify the requirements for annual and semiannual accounting reports of the Obligor accordingly.

(i) *Letter of confirmation.* The Company must furnish, along with its financial report, a letter of confirmation

issued by its insurance underwriter(s) or broker(s) that the Company has paid premiums on insurance applicable to the preservation, protection and operation of the asset, which information must state the term for which the insurance is in force.

§ 298.43 Applicability of the regulations.

(a) The regulations in this part are effective August 21, 2000, and apply to all applications made, Letter Commitments, Commitments to Guarantee Obligations or Guarantees issued or entered into on or after August 21, 2000, under section 1104(a) of the Merchant Marine Act, 1936, as amended.

(b) The regulations in this part do not apply to any applications made, Letter Commitments, Commitments to Guarantee Obligations, or Guarantees issued under those regulations in effect before August 21, 2000. See 46 CFR, parts 200 to 499, edition revised as of October 1, 1996 and 46 CFR, parts 200 to 499, edition revised as of October 1, 1999 for regulations that apply to applications made, Letter Commitments, Commitments to Guarantee Obligations, or Guarantees issued before August 21, 2000.

Subpart F—Administration [Reserved]

Dated: July 6, 2000.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–17496 Filed 7–19–00; 8:45 am]

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Part III

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Part 60–741

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities; Separate Facility Waivers; Final Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–741

RIN 1215–AA84

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals With Disabilities; Separate Facility Waivers

AGENCY: Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This rule amends the regulation that permits Federal contractors to seek waivers from the requirements of Section 503 of the Rehabilitation Act of 1973 for those facilities that are not connected with the performance of a covered contract. Section 503 requires Government contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. The Rehabilitation Act Amendments of 1992 expressly incorporated into Section 503 the existing separate facility waiver regulation. The 1992 Amendments also required publication of regulations that list the standards to be used for granting separate facility waivers and, accordingly, this rule lists factors that will be considered when determining whether to grant such waivers.

EFFECTIVE DATE: August 21, 2000.

FOR FURTHER INFORMATION CONTACT: James I. Melvin, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, Room N–3424, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 693–0102 (voice), (202) 693–1308 (TDD/TTY). Copies of this final rule in alternate formats may be obtained by calling OFCCP at (202) 693–0119 (voice) or (202) 693–1308 (TDD/TTY). The alternate formats available are large print, electronic file on computer disk and audio-tape. The final rule also is available on the Internet at http://www.dol.gov/dol/esa.

SUPPLEMENTARY INFORMATION:

I. Background

Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503 or the Act), requires parties holding Federal Government contracts and subcontracts in excess of $10,000 to take affirmative action to employ and advance in employment qualified individuals with disabilities. OFCCP administers Section 503 and has published implementing regulations at 41 CFR Part 60–741, 61 FR 19336 (May 1, 1996).

One provision in the regulations permits Federal contractors and subcontractors to seek a waiver from the requirements of Section 503 for facilities that are not connected with the performance of a covered contract or subcontract, that is, ''separate facilities.'' 41 CFR 60–741.4(b)(3). The history of the Section 503 separate facility waiver regulation was recounted in the notice of proposed rulemaking (NPRM), 61 FR 5902, 5902–03, published on February 14, 1996, and readers interested in that background information may refer to that discussion. Most importantly to this rulemaking is that the Rehabilitation Act Amendments of 1992, Pub. L. 102–569, 106 Stat. 4344 (1992 Amendments), revised Section 503 to provide that if an entity holds a covered contract all its establishments and all its workforce are subject to Section 503, absent the granting of a waiver. Section 505(b) of the 1992 Amendments (Waiver Amendment) expressly incorporated the existing separate facility waiver regulation (with minor editorial changes) into Section 503.

The text of the Waiver Amendment, as it appears at 29 U.S.C. 793(c)(2)(A)–(B), reads as follows:

> (A) The Secretary of Labor may waive the requirements of the affirmative action clause required by the regulations promulgated under [Section 503(a)] with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.
>
> (B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

The affirmative action clause referenced in the statute is published at 41 CFR 60–741.5 and lists contractors' basic obligations under Section 503, including the obligation to comply with the regulations. Accordingly, a waiver of the affirmative action clause exempts covered contractors from the obligation to comply with Section 503 and its implementing regulations.

The Amendment requires OFCCP to make two separate findings to justify granting a waiver. As a threshold requirement, OFCCP must find that the facility for which the waiver is sought is in all respects separate and distinct from activities related to the performance of a covered contract. If the facility satisfies this ''separate and distinct'' requirement, OFCCP must additionally find that granting the waiver will not interfere with or impede the effectuation of the Act.

On February 14, 1996, OFCCP issued a proposed rule, 61 FR 5902, that set forth the standards that the agency would use to determine whether to grant separate facility waivers. A notice correcting certain technical errors in the NPRM was published on March 8, 1996, 61 FR 9532. The comment period ended April 15, 1996.

An individual Government contractor, an organization representing Government contractors and an organization representing disability rights agencies submitted comments. The submissions have been logged into the record for this rulemaking as Comments 1, 2 and 3, respectively, and they have been considered in the development of this final rule. Below is a discussion of the comments (referenced as ''Com.'' or ''Coms.'') and an explanation of the changes made from the proposed rule to this final rule. For an explanation of provisions adopted unchanged from the proposed rule and on which no comments were made, see the NPRM preamble.

II. Analysis of Public Comments and Revisions

General Issues Concerning Regulatory Approach

On May 1, 1996, a final rule was issued that comprehensively revised the Section 503 regulations published at 41 CFR Part 60–741. 61 FR 19336. The revision continued the existing separate facility waiver regulation without substantive change. 41 CFR 60–741.4(b)(3). Today's final rule amends § 60–741.4(b)(3).

The NPRM announced that the long-standing practice of interpreting the separate facility waiver regulation narrowly so as to ''jealously guard'' the granting of waivers would be continued. 61 FR 5903. One commenter thought that the OFCCP position might be contrary to the intent of Congress as expressed in the Waiver Amendment. (Com. 2.) However, both the plain language of the amendment and its legislative history militate against this conclusion.

As is noted above, the Waiver Amendment adopted the pre-existing Section 503 separate facility waiver regulation, implicitly approving of the narrow manner in which OFCCP had administered the regulation. In addition,

the Waiver Amendment is narrow on its face. The statute makes the granting of separate facility waivers discretionary; the waiver ''may'' be granted if it is determined that the facility is qualified to receive a waiver. Moreover, the legislative history of the 1992 Amendments indicates that the scope of coverage under Section 503 was being clarified to parallel coverage under Executive Order 11246. S. Rep. No. 357, 102d Cong., 2d Sess. 72, *reprinted in* 1992 U.S. Code Cong. & Admin. News 3783. OFCCP traditionally has jealously guarded separate facility waivers under the Executive Order as well. Finally, a narrow construction of the waiver provision comports with the well established rule of statutory interpretation that exceptions to remedial statutes, such as the Rehabilitation Act, are strictly and narrowly construed. Accordingly, OFCCP will continue its long-standing practice of jealously guarding the granting of separate facility waivers.

One commenter expressed general support for the proposed rule, noting that it contained a ''number of safeguards which will help ensure fair application of Section 503's very important mandate—to foster equal employment opportunity for qualified individuals with disabilities.'' (Com. 3.) This commenter supported, for example, the concept of broad discretion in the agency to evaluate waiver requests.

Two commenters, however, felt that the proposal gave OFCCP too much discretion in determining whether to grant or deny a waiver. (Coms. 1 & 2.) These commenters noted that the proposal's list of factors was non-exhaustive and that other, unspecified, factors might be considered by OFCCP. One commenter recognized that ''[i]t is acceptable to have tough requirements for a waiver'' but thought that all standards should be listed and that if the standards are satisfied ''then a waiver should be granted as the rule and not as an exception.'' (Com. 1.)

The rule adopted today modifies the proposed rule to address the suggestions of greater certainty as to the factors that will be considered by the agency. The final rule replaces the word ''may'' in the introductory language in paragraphs (b)(3)(ii) and (iii) with the word ''shall'' to obligate the Deputy Assistant Secretary to consider the factors listed under those two provisions.

However, deciding whether to grant a separate facility waiver requires an individual, fact-based analysis, and this weighs against adopting the rigid approach suggested by two of the commenters. Federal contractors covered by Section 503 present a wide variety of organizational structures and staffing patterns. Accordingly, a wide range of possible relationships between a contractor's facilities also exists. The relationships between facilities may take many forms, for instance, two or more facilities might do exactly the same work, or one facility may be a supplier of materials, a distributer of goods, a provider of administrative support or management direction, or a source of capital or equipment. Facilities also may be related due to staffing patterns used by the contractor, such as, temporary reassignment or detailing of employees from one facility to another, rotating workers among facilities, and using one facility as a training ground for eventual assignment at another facility.

Because of the wide range of relationships that might exist among contractors' facilities, the rule must be flexible to enable the Deputy Assistant Secretary to consider any additional, relevant facts in determining whether a particular facility is separate and distinct in ''all'' respects and that a waiver will not interfere with or impede effectuation of the Act. Consequently, the final rule adopts proposed paragraphs (b)(3)(ii)(F) and (b)(3)(iii)(D), which authorize the Deputy Assistant Secretary to consider additional factors when he or she deems it necessary or appropriate.

Paragraph (b)(3)(i)

Proposed paragraph (b)(3)(i) listed the general standards that would be required to obtain separate facility waivers. Subparagraphs (b)(3)(i)(A) and (B) recited the two threshold requirements codified in the statutory waiver amendment and present in the old regulation. Paragraph (b)(3)(i) also specified that waivers only will be considered by the Deputy Assistant Secretary upon the written request of a prime contractor or subcontractor, and that the contractor or subcontractor bears the burden of demonstrating that a waiver is appropriate.

No objections were raised regarding the language proposed in paragraph (b)(3)(i) and one commenter expressed its approval of the requirement that Federal contractors demonstrate their eligibility for the waiver. (Com. 3.) The final rule adopts unchanged proposed paragraph (b)(3)(i).

One commenter recommended that the rule also list the type of documentation the contractor should submit with the request. (Com. 3.) Given the variety of contractors subject to Section 503, however, OFCCP neither wants to overly dictate the content of requests nor unnecessarily constrain contractors in the manner in which they choose to make their case that a waiver is appropriate. The waiver rule clearly informs contractors that they have the burden of demonstrating that a waiver is appropriate and sets forth the standards OFCCP will use to evaluate their request. If contractors do not factually support their requests, OFCCP may ask for additional details or deny the requests. The final rule, therefore, does not specify the documents needed to be submitted with waiver requests.

One commenter suggested that a provision be added to the rule to require that OFCCP respond to a waiver request within a set period of time. (Com. 2.) OFCCP considers setting an across-the-board regulatory time limit in which to respond to waiver requests as inappropriately restrictive given the individual nature of waiver determinations and the multitude of organizational structures and staffing patterns that may be involved. Before making a decision, the Deputy Assistant Secretary may need to get more information from the contractor or conduct an on-site investigation to verify that the facility is separate and distinct in all respects. The fact-based nature of these inquiries, and the possibility that more information may need to be gathered, militates against setting a rigid deadline for responding to waiver requests. Of course, OFCCP will respond as quickly as is possible to requests for separate facility waivers.

Paragraph (b)(3)(ii)

Proposed paragraph (b)(3)(ii) listed factors to be considered to determine whether the facility is separate and distinct in all respects from activities related to the performance of a covered contract. The factors focused on the activities and employees at the facility for which the waiver is requested. No criticisms of these factors were expressed in the comments. Indeed, the organization representing Government contractors stated that it was in general agreement that the factors listed in proposed paragraph (b)(3)(ii) were reasonable for purposes of making a waiver determination. (Com. 2.) [1] The final rule adopts these factors.

[1] This commenter also expressed its belief that OFCCP previously made decisions about whether to grant a separate facility waiver using standards articulated in *Ernst-Theodore Arndt,* 52 Comp. Gen. 145 (1972). That Comptroller General opinion, however, addresses whether a parent company and its subsidiary are to be considered a single entity for purposes of being covered by Executive Order 11246. OFCCP has not previously used the parent-subsidiary criteria to determine whether to grant separate facility waivers because these inquiries

Continued

Another commenter suggested adding to the rule two factors pertaining to the ''separate and distinct'' determination: (1) Whether employees at facilities at which Government contract work is performed are typically recruited for higher level positions at facilities unrelated to the performance of a Government contract; and (2) whether employees at facilities at which Government contract work is performed are interchangeable with employees at facilities at which no such work is performed. (Com. 3.) This commenter reasoned that:

> Many employers' operations are organized in such a way that similar jobs are performed at multiple facilities (only some of which happen to perform Government contract work). Such employers may be tempted to relegate (either through transfer or original placement) employees with disabilities to exempted facilities. Similarly, employers may seek to avoid affirmative action obligations by promoting employees with disabilities into jobs stationed at these facilities.

The commenter believed that adoption of these factors into the final rule could help to minimize these practices. OFCCP agrees with this commenter and believes that these factors should be incorporated into the final rule. It is important to note that limiting or segregating qualified employees with disabilities to particular facilities or jobs because of their disabilities would constitute discrimination prohibited by Section 503. *See, e.g.,* 41 CFR 60–741.21(b).

OFCCP considers these suggested factors to be corollaries of the proposed factors in (b)(3)(ii)(D) and (E), respectively, involving the contractor's employee staffing patterns. The suggested factor concerning recruitment into a facility unrelated to the performance of a Government contract encompasses the example contained in the NPRM preamble regarding subparagraph (D):

> [I]f employees who work on a Federal contract at one facility must, at some future time, work at another facility for which a waiver is sought in order for them to advance in employment, the facility for which a waiver is sought may be inexorably linked to the employees working on the contract and, therefore, not ''separate and distinct.''

61 FR 5904. To clarify the factor expressed in subparagraph (D), the final rule incorporates the recommended element into the rule. Thus, paragraph (b)(3)(ii)(D) of the final rule states that the Deputy Assistant Secretary will consider whether working at the facility for which a waiver is sought is a prerequisite for advancement in job responsibility or pay and the extent to which employees at facilities connected to a Government contract are recruited for positions at the facility for which a waiver is sought. In determining whether a waiver is appropriate given the totality of circumstances, the Deputy Assistant Secretary will weigh the extent to which any recruitment among the facilities occurs, including recruitment for details, transfers or promotions.

OFCCP considers the suggested factor regarding the interchangeable nature of employees as being within the scope of proposed subparagraph (E), which addressed whether employees or applicants for employment at the facility may perform work related to a Government contract at another facility. To clarify subparagraph (E), the final rule incorporates the recommended element into this subparagraph. Accordingly, the final rule at paragraph (b)(3)(ii)(E) specifies that the Deputy Assistant Secretary will consider whether employees or applicants for employment at the facility may perform work related to a Government contract at another facility and the extent to which employees at the facility are interchangeable with employees at facilities connected to a Government contract.

Paragraph (b)(3)(iii)

Proposed paragraph (b)(3)(iii)(A) indicated that OFCCP would consider, when determining if granting a waiver will interfere with or impede the effectuation of the Act, whether the waiver was being used as a subterfuge to circumvent the contractor's obligations under the Act or implementing regulations. The NPRM stated that OFCCP may consider, for example, whether the contractor sought a waiver only after learning that the facility at issue was being scheduled for a Section 503 compliance review. 61 FR 5904. One commenter believed that a waiver request made after a Section 503 complaint investigation or compliance review is scheduled should not be considered as an attempt at subterfuge, and claimed that the question of whether the facility is separate and distinct is a jurisdictional issue that may be raised at any time. (Com. 2.) OFCCP disagrees.

As is noted above, the statute provides that granting separate facility waivers is discretionary. As long as an entity holds a covered contract all its establishments are subject to Section 503, absent a waiver being granted. A request for a waiver does not stay application of the Section 503 obligations and does not have a retroactive effect.

The same commenter also asserted that it would be burdensome to require contractors to request waivers for all facilities that genuinely appear separate and distinct just to anticipate the possibility that an OFCCP review might be scheduled. This argument ignores the express intent of the 1992 Amendments; that all establishments of a covered contractor are subject to Section 503 absent a waiver. Under Section 503, a Federal contractor's compliance obligations begin when the contractor gains a covered contract, not when it gets notice of an OFCCP review.

Compliance with Section 503, as it is with any law, cannot be dependent upon the presence of a Government official at the entity's doorstep. OFCCP relies in good measure upon the law-abiding nature of Government contractors to comply with the Act and its implementing regulations, and to provide equal employment opportunity for qualified individuals with disabilities. To condone the filing of an application for a separate facility waiver only after a complaint investigation or compliance review has been scheduled may encourage contractors to disregard their Section 503 obligations until OFCCP decides to investigate compliance. The view of the agency, therefore, is that whether the contractor requested a separate facility waiver only after a Section 503 complaint investigation or compliance review has been scheduled is a relevant factor to consider in determining if a waiver should be granted.

It should also be noted that OFCCP's jurisdiction to investigate Section 503 complaints that have been filed against a contractor prior to its requesting a waiver is not dependent on the Deputy Assistant Secretary's decision, favorable or unfavorable, to grant a waiver. A waiver does not have a retroactive effect (*i.e.,* a waiver does not relieve a contractor from liability for a violation pre-dating the granting of the waiver). A waiver is in effect only from the time it is issued until the time it terminates. Accordingly, there is no basis for suspending a complaint investigation pending a decision of whether to grant a separate facility waiver.

Under factor (B), the NPRM explained that the results of any past Section 503 complaint investigations or compliance reviews of the facility at issue, or of other facilities of the contractor, may be considered. 61 FR 5904. One commenter

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examine different aspects of business relationships for different purposes. The question of whether a waiver is appropriate for facilities not connected to the performance of Government contracts only arises if the facility is a component of a covered entity.

believed that complaints filed against facilities for which waivers were not requested should be irrelevant. (Com. 2.) OFCCP disagrees.

Section 503 requires covered contractors to review their corporate-wide employment policies and practices to ensure that there is no discrimination and that affirmative action is taken to employ and advance in employment qualified individuals with disabilities. If, for example, corporate-wide policies have been found to discriminate against qualified individuals with disabilities at other facilities, such may also be the case at the facility for which the waiver is requested. Significant compliance problems at other facilities of the contractor may also indicate corporate-level disregard for the Section 503 nondiscrimination and affirmative action obligations. Granting a separate facility waiver to a contractor with significant compliance problems at other facilities may further impede effectuation of the Act at the remaining covered facilities.

One commenter recommended that factor (B) be broadened expressly to include consideration of the contractor's compliance with Titles I, II, and III of the Americans with Disabilities Act of 1990 (ADA), which prohibit discrimination on the basis of disability in employment, public services and public accommodations, and with state and local laws prohibiting disability discrimination in these areas. (Com. 3.) The commenter considered this expansion necessary because OFCCP investigates a relatively small percentage of covered contractors each year. A contractor's compliance with other Federal, state or local laws requiring equal opportunity for disabled persons may indicate whether the general environment or atmosphere in the contractor's workplace embraces equal employment opportunity for individuals with disabilities.

It is current OFCCP practice during compliance reviews to ask the Equal Employment Opportunity Commission (EEOC) and the state and local Fair Employment Practices (FEP) agencies whether complaints have been filed against the contractor and for any other information that may be pertinent in assessing the contractor's equal employment opportunity posture. *See, e.g.,* OFCCP Federal Contract Compliance Manual, at 2B05. Existing regulations provide for coordination with EEOC and any state or local FEP agencies in the processing and resolution of complaints/charges filed against Federal contractors that fall within the scope of both Section 503 and the ADA. In certain instances, OFCCP acts as EEOC's agent. *See, e.g.,* 41 CFR 60–742.2(a) and (c), 60–742.5(a). *See also* 41 CFR 60–741.1(c)(1) and (2) (describing the relationship of the rules implementing Section 503 to other Federal, state or local laws providing protections for the rights of individuals with disabilities).

Consequently, today's final rule broadens the types of laws that might be considered under factor (B) to include any other Federal, state or local law requiring equal opportunity for disabled persons. The new language mirrors language in the Section 503 anti-retaliation rule published at 41 CFR 60–741.69(a)(2) and (3). That rule prohibits contractors, among other things, from retaliating against an individual who has assisted or participated in any activity related to the administration of, or opposed any practice made unlawful by, Section 503 or of ''any other Federal, State or local law requiring equal opportunity for disabled persons.'' *See also* 41 CFR 60–741.44(a)(2)–(3). The objective of this change to factor (B) is not to enforce the other Federal, state or local laws, but to specify that, in determining whether a waiver might interfere with or impede the effectuation of Section 503, OFCCP will consider information regarding a contractor's compliance with other disability-related laws.

Paragraph (b)(3)(iii)(C) focuses on the impact of granting a waiver on OFCCP enforcement efforts. A number of examples were provided in the NPRM preamble of the types of facts that might be considered under this factor. 61 FR 5904. One commenter stated that two of those preamble examples were irrelevant to a determination of whether a particular facility is separate from another facility with a contract: (1) Whether the waiver would simplify or complicate OFCCP's compliance review activity; and (2) whether the contractor is a large employer in a small town. (Com. 2.)

Considering whether granting a waiver would have an impact on compliance review activity is necessary because the Act mandates that waivers must not interfere with or impede the effectuation of the Act. An adverse impact on OFCCP enforcement activity would impede OFCCP administration of the Act. On the other hand, OFCCP acknowledges that whether the facility for which the waiver is sought is the largest employer in a small town would probably not be relevant to a separate facility waiver determination. Accordingly, this latter criterion is not codified in the final rule.

Another commenter suggested that the extent to which the facility at issue employs, and is physically accessible to, persons with disabilities is another factor relevant to the question of whether a waiver might preclude effective enforcement of the Act. (Com. 3.) OFCCP declines including this suggestion in the rule, but notes that the rule does not prohibit contractors from including such information with their waiver request as evidence, for example, that the waiver request is not a subterfuge to avoid Section 503 obligations. Further, a contractor's hiring of individuals with disabilities and maintaining an accessible facility would not be a defense to an instance of unlawful disability-based employment discrimination (*e.g.,* in promotions or job assignments, or in establishing rates of pay or fringe benefits). *See* 41 CFR 60–741.20. Consequently, OFCCP does not believe it is necessary to include this suggested factor in the rule.

Paragraph (b)(3)(iv)

Proposed paragraph (b)(3)(iv) provided that waivers granted in accordance with paragraph (b)(3) may be withdrawn by the Deputy Assistant Secretary at any time when, in his or her judgment, such action is necessary or appropriate to achieve the purposes of the Act. Two commenters agreed that withdrawing a waiver would be appropriate if circumstances changed and the contractor no longer satisfied the requirements for a waiver. (Coms. 2 & 3.) One commenter opposed the broadness of the discretion to withdraw a waiver. (Com. 2.) This commenter was concerned, for instance, that such broad discretion would make it difficult to determine when a waiver would remain in force. Another commenter recommended that a waiver be effective for a specific period, suggesting one or two years as suitable. (Com. 3.) This commenter, however, also recommended that the contractor should have to demonstrate its continuing eligibility throughout the period.

OFCCP agrees with the general thrust of the comments that the regulation should describe more clearly the period a waiver will remain in force. A number of the commenters' recommendations regarding the duration and termination of separate facility waivers are reflected in the final rule under new paragraph (b)(3)(v), which is described below.

The final rule replaces proposed paragraph (b)(3)(iv) to address the comments that the rule assure that contractors granted separate facility waivers satisfy the rule's requirements during the duration of the waiver. Under paragraph (b)(3)(iv)(A),

contractors granted separate facility waivers must promptly inform OFCCP of any changed circumstances that were not reflected in the waiver requests. Changed circumstances include, for instance, the award of additional Government contracts and changes in the allocation of personnel to perform the Government contracts. To retain the waiver, the contractor must demonstrate that despite any changed circumstances, the facility remains in all respects separate and distinct and that continuing the waiver will not interfere with or impede the effectuation of the Act.

As one commenter recognized, the duty to demonstrate that the contractor continues to be eligible for the waiver once the waiver has been granted contemplates that OFCCP could investigate this issue during the waiver period. (See Com. 3.) Accordingly, paragraph (b)(3)(iv)(B) of the final rule clarifies that a contractor that has been granted a separate facility waiver must permit OFCCP access to the contractor's records and places of business (including the facility granted a waiver and other facilities) for the purpose of investigating whether the facility granted a waiver meets the standards and requirements of the paragraph (b)(3). If an investigation reveals that a waiver is inappropriate, the waiver will be terminated and the facility must comply with Section 503 and the implementing regulations as described in paragraph (b)(3)(v) below.

Paragraph (b)(3)(v)

In accordance with the comments described directly above (Coms. 2 & 3), new paragraph (b)(3)(v) provides contractors who have been granted separate facility waivers with greater certainty as to the period the waiver will remain in effect. Under paragraph (b)(3)(v)(A), a separate facility waiver will terminate on one of three dates, as is described in paragraphs (b)(3)(v)(A)(*1*) through (*3*), whichever is earliest.

Under paragraph (b)(3)(v)(A)(*1*), the waiver will end two years after the date the waiver was granted. OFCCP believes that waivers for a two-year period will meet contractors' needs to have greater certainty as to the period of a waiver's effectiveness, as well as to provide the agency with a reasonable time period in which to check the appropriateness of continuing a waiver. (See Coms. 2 & 3.) Under the rule, if a Government contractor wants a separate facility waiver to continue beyond two years, the contractor would have to apply for another waiver before the end of the initial two-year period even if circumstances did not change. The request for another waiver must meet the same standards as the original waiver request, including demonstrating that the facility satisfies the rule.

Applying for another separate facility waiver before the end of the initial two-year period will not stay the termination of a waiver. If the Deputy Assistant Secretary does not act on a waiver renewal request before the two-year termination date, the original waiver terminates at the end of the two-year period. Absent a valid separate facility waiver, the facility must comply with Section 503 and the implementing regulations as described in paragraph (b)(3)(v)(B) below. If another waiver is granted it will be subject to the same termination provisions as the original waiver, including termination at least two years from the date of approval. OFCCP intends to process separate facility waiver renewal requests in a timely manner upon receipt.

Paragraph (b)(3)(v)(A)(*2*) provides that the waiver will terminate before the two-year period when the facility performs any work that directly supports or contributes to the satisfaction of the work performed on a Government contract. Therefore, the waiver is automatically terminated by operation of the regulation when the facility gets a Government contract or performs work to satisfy a Government contract. A facility that gets a Government contract or to which Government contract work has been shifted by the contractor is the ultimate ''changed circumstance.'' Such direct Government contract performance by a facility so clearly defeats its eligibility for a separate facility waiver that it is reasonable to terminate the waiver without need for the contractor to first submit a report or for the Deputy Assistant Secretary to issue a determination that ending the waiver is appropriate. Direct Government contract performance requires the contractor to comply with Section 503.

New paragraph (b)(3)(v)(A)(*3*) adopts a modified version of the provision OFCCP originally proposed for paragraph (b)(3)(iv). Proposed paragraph (b)(3)(iv) provided that waivers could be withdrawn by the Deputy Assistant Secretary at any time when, in his or her judgment, such action was necessary or appropriate to achieve the purposes of the Act. The final rule addresses comments that the proposed rule gave OFCCP too much discretion in withdrawing waivers. The language is revised to indicate that a waiver may be terminated by the Deputy Assistant Secretary before the two-year waiver period only when it is determined that the separate facility waiver requirements are not being met. Termination may be based on information from the contractor regarding changed circumstances or contained in a request for another waiver. Termination also may be based on any other relevant information including, but not limited to, information from contracting agencies, employees and job applicants, or from the results of an OFCCP investigation.

To further clarify when a terminated waiver triggers compliance obligations, the final rule adopts new paragraph (b)(3)(v)(B). This provision specifies that contractors must meet the Section 503 obligations on the date of termination. The rule provides one exception to this compliance deadline. If the written affirmative action program (AAP) requirements published at 41 CFR 60–741.40 through 60–741.45 are applicable to the facility the contractor must comply with these requirements within 120 days of the termination of the waiver.

OFCCP believes that these compliance deadlines are reasonable. Contractors whose separate facility waivers terminate under the rule are on notice of their impending compliance responsibilities. These contractors also are familiar with their Section 503 obligations because they are required to comply at all their other facilities. The 120-day compliance deadline for preparing and maintaining an AAP at the facility, if applicable, is the same time period allowed a newly covered contractor to develop an AAP. *See* 41 CFR 60–741.40(b).

Paragraph (b)(3)(vi)

One commenter suggested that the rule specify that OFCCP will impose sanctions against contractors that make fraudulent or misleading waiver requests. (Com. 3.) OFCCP agrees. The NPRM stated that waivers would be withdrawn if OFCCP discovered that the facts upon which it relied in granting the waiver did not accurately or fully describe the relationship between the facility and the contractor's activities related to the performance of a contract. 61 FR 5904. Many Federal programs explicitly prohibit fraudulent and false statements and representations; indeed, the Federal Acquisition Regulations provide that contractors may be debarred or suspended for such activity, *see* 48 CFR 9.406–2(a)(1), (a)(3); 9.407–2(a)(1), (a)(3). Certainly OFCCP cannot countenance fraudulent and misleading waiver requests. Otherwise, Government resources will be wasted, the ability of OFCCP to consider legitimate requests from contractors will be hampered, and

the benefits of the program will be reduced.

Therefore, new paragraph (b)(3)(vi) expressly prohibits false or fraudulent statements and representations under § 60–741.4(b)(3). This prohibition applies to all statements and representations made under the separate facility waiver rule including, but not limited to, waiver requests, reports of changed circumstances, and requests to extend previously-granted waivers. False or fraudulent statements or representations may subject a contractor to sanctions and penalties under this part, as well as criminal prosecution under 18 U.S.C. 1001, which makes it a crime for anyone to make such misrepresentations to any department or agency of the U.S. Government. Of course, should OFCCP discover that false or fraudulent statements or representations were made in conjunction with a waiver request the request will also be denied (or if previously granted, the waiver will be withdrawn).

III. Regulatory Analyses and Procedures

Executive Order 12866

The Secretary of Labor has determined that this final rule is not a significant regulatory action as defined in Executive Order 12866, and therefore a regulatory impact analysis is unnecessary.

Regulatory Flexibility Act

This final rule will not change existing equal employment obligations for Federal contractors but will only clarify the standards OFCCP uses for determining whether to grant separate facility waivers. Consequently, under the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the Secretary of Labor certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform

Executive Order 12875—This final rule does not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This final rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Executive Order 13132

These regulations have been reviewed in accordance with Executive Order 13132 regarding Federalism. The order requires that agencies, to the extent practicable and permitted by law: (1) Not promulgate any regulation that has federalism implications, that imposes substantial direct compliance costs on State and local governments, and that is not required by statute; and (2) not promulgate any regulation that has federalism implications and that preempts State law, unless specified preconditions are met. Since this rule does not have federalism implications, does not impose substantial direct costs on State and local governments and does not preempt State law, it complies with the principles of federalism and with Executive Order 13132.

Paperwork Reduction Act

This final rule does not contain substantive or material modifications to previously approved information collection requirements, but will only clarify existing standards for the granting of separate facility waivers. In view of this fact, and because the final rule does not change existing obligations for Federal contractors, the rule creates no additional information collection requirements above those in the current information collection requests approved by the Office of Management and Budget under control numbers 1215–0072 (Supply and Service) and 1215–1063 (Construction).

List of Subjects in 41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements.

Signed at Washington, D.C. this 12th day of July 2000.

Alexis M. Herman,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

For the reasons set out in the preamble, 41 CFR part 60–741 is amended as set forth below:

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

1. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 706 and 793; and E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

2. In § 60–741.4, paragraph (b)(3) is revised to read as follows:

§ 60–741.4 Coverage and waivers.

* * * * *

(b) * * *

(3) *Facilities not connected with contracts.* (i) Upon the written request of the contractor, the Deputy Assistant Secretary may waive the requirements of the equal opportunity clause with respect to any of a contractor's facilities if the Deputy Assistant Secretary finds that the contractor has demonstrated that:

(A) The facility is in all respects separate and distinct from activities of the contractor related to the performance of a contract; and

(B) Such a waiver will not interfere with or impede the effectuation of the act.

(ii) The Deputy Assistant Secretary's findings as to whether the facility is separate and distinct in all respects from activities of the contractor related to the performance of a contract shall include consideration of the following factors:

(A) Whether any work at the facility directly or indirectly supports or contributes to the satisfaction of the work performed on a Government contract;

(B) The extent to which the facility benefits, directly or indirectly, from a Government contract;

(C) Whether any costs associated with operating the facility are charged to a Government contract;

(D) Whether working at the facility is a prerequisite for advancement in job responsibility or pay, and the extent to which employees at facilities connected to a Government contract are recruited for positions at the facility;

(E) Whether employees or applicants for employment at the facility may perform work related to a Government contract at another facility, and the extent to which employees at the facility are interchangeable with employees at facilities connected to a Government contract; and

(F) Such other factors that the Deputy Assistant Secretary deems are necessary or appropriate for considering whether the facility is in all respects separate and distinct from the activities of the contractor related to the performance of a contract.

(iii) The Deputy Assistant Secretary's findings as to whether granting a waiver will interfere with or impede the effectuation of the act shall include consideration of the following factors:

(A) Whether the waiver will be used as a subterfuge to circumvent the contractor's obligations under the act;

(B) The contractor's compliance with the act or any other Federal, State or local law requiring equal opportunity for disabled persons;

(C) The impact of granting the waiver on OFCCP enforcement efforts; and

(D) Such other factors that the Deputy Assistant Secretary deems are necessary or appropriate for considering whether the granting of the waiver would interfere with or impede the effectuation of the act.

(iv) A contractor granted a waiver under paragraph (b)(3) of this section shall:

(A) Promptly inform the Deputy Assistant Secretary of any changed circumstances not reflected in the contractor's waiver request; and

(B) Permit the Deputy Assistant Secretary access during normal business hours to the contractor's places of business for the purpose of investigating whether the facility granted a waiver meets the standards and requirements of paragraph (b)(3) of this section, and for inspecting and copying such books and accounts and records, including computerized records, and other material as may be relevant to the matter under investigation.

(v)(A) A waiver granted under paragraph (b)(3) of this section shall terminate on one of the following dates, whichever is earliest:

(*1*) Two years after the date the waiver was granted.

(*2*) When the facility performs any work that directly supports or contributes to the satisfaction of the work performed on a Government contract.

(*3*) When the Deputy Assistant Secretary determines, based on information provided by the contractor under this section or upon any other relevant information, that the facility does not meet the requirements of paragraph (b)(3) of this section.

(B) When a waiver terminates in accordance with paragraph (b)(3)(v)(A) of this section the contractor shall ensure that the facility complies with this part on the date of termination, except that compliance with §§ 60–741.40 through 60–741.45, if applicable, must be attained within 120 days of such termination.

(vi) False or fraudulent statements or representations made by a contractor under paragraph (b)(3) of this section are prohibited and may subject the contractor to sanctions and penalties under this part and criminal prosecution under 18 U.S.C. 1001.

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Part IV

Environmental Protection Agency

40 CFR Parts 50 and 81
Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 81

[FRL–6733–3]

RIN 2060–ZA08

Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is rescinding its prior findings that the 1-hour ozone national ambient air quality standard (NAAQS) and the accompanying designations and classifications no longer apply in certain areas. As part of a transition to a new, more protective 8-hour ozone standard (promulgated in July 1997), in 1998 and 1999, EPA took final action determining that the 1-hour standard would no longer apply in almost 3,000 counties. Now, however, the public health protection that would be afforded by the 8-hour ozone standard is being delayed because continued litigation regarding the 8-hour ozone standard has created uncertainty regarding when and whether EPA may be able to fully implement that standard. It is important to have a fully enforceable Federal ozone standard to help protect people from the respiratory and other harmful effects of ozone pollution. Under this final rule, the designations and classifications that previously applied in such areas with respect to the 1-hour standard would also be reinstated. This rule will become effective in 90 days for most areas, and will become applicable in 180 days for areas with clean air quality data that had a nonattainment designation when the 1-hour standard was revoked. Furthermore, today EPA is taking final action to amend 40 CFR 50.9(b) to provide by rule that the 1-hour ozone standard will continue to apply to all areas notwithstanding promulgation of the 8-hour ozone standard; and that after the 8-hour standard has become fully enforceable under part D of title I of the Clean Air Act (CAA) and is no longer subject to further legal challenge, the 1-hour standard set forth in section 50.9(a) will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard.

DATES: Effective Date: This rule is effective on October 18, 2000.

Applicability Dates: This rule applies on October 18, 2000 for all areas where EPA had revoked the 1-hour ozone standard except for those nonattainment areas with clean data listed in section III. F., Table 1 of the preamble, and applies on January 16, 2001 for such areas listed in Table 1 of the preamble.

ADDRESSES: *Public Inspection.* You may read the final rule (including paper copies of comments and data submitted electronically, minus anything claimed as confidential business information) and the Response to Comments Document at the Docket and Information Center (6102), Docket No. A–99–22, U.S. Environmental Protection Agency, 401 M Street, SW, Waterside Mall, Room M–1500, Washington, DC 20460, telephone (202) 260–7548. They are available for public inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. We may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Questions about this final rule should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5246/5238 or e-mail to nikbakht.annie@epa.gov or gilbert.barry@epa.gov. To ask about policy matters or monitoring data for a specific geographic area, call one of these contacts:

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SUPPLEMENTARY INFORMATION:

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I. Background

The EPA promulgated a revised 8-hour ozone standard in July 1997 [1] (62 FR 38856, July 18, 1997). At that time, EPA also promulgated 40 CFR 50.9(b), governing when the previous health-based ozone standard—the 1-hour standard—would no longer apply to areas. Several parties challenged EPA's revised ozone standard and EPA's revised particulate matter standard, which was promulgated on the same day. *American Trucking Assoc.* v. *EPA,* (D.C. Cir., Nos. 97–1440 and 97–1441) (*ATA* v. *EPA*).

[1] For both the 1-hour and 8-hour ozone standards, EPA has promulgated secondary standards that are identical to the primary standard. Because the primary and secondary standards are identical, EPA refers to the 1-hour and 8-hour standards in the singular. However, both EPA's initial rule determining that the 1-hour standard no longer applied and this rule reinstating the applicability of that standard apply for purposes of both the primary and secondary 1-hour ozone standards. Similarly, EPA's references to the 8-hour standard encompass both the primary and secondary 8-hour standards.

On June 5, 1998 (63 FR 31014), July 22, 1998 (63 FR 39432), and June 9, 1999 (64 FR 30911), in accordance with 40 CFR 50.9(b), we issued final rules for many areas that were attaining the 1-hour standard, finding that the 1-hour ozone standard no longer applied to these areas. [2] At that time, we amended the Code of Federal Regulations (CFR) to remove the designations and classifications that had applied to those areas for the 1-hour standard under sections 107, 172 and 181 of the CAA. [3]

On May 14, 1999, the Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an opinion in the cases challenging EPA's revised ozone and particulate matter standards. *ATA* v. *EPA*, 175 F.3d 1027 (D.C. Cir., 1999). The court questioned the constitutionality of the CAA authority to review and revise NAAQS, as applied in EPA's revision to the ozone and particulate matter NAAQS. The Court stopped short of finding the statutory grant of authority unconstitutional, instead providing EPA with an opportunity to articulate a determinate principle for revising the ozone and particulate matter NAAQS under the statute. 175 F.3d at 1034–40. The court also addressed EPA's authority to classify areas and to set attainment dates for a revised ozone standard. 175 F.3d at 1034–40. Based on language in sections 172(a) and 181(a) of the CAA, the court concluded that EPA could only classify and set attainment dates for areas for purposes of any ozone NAAQS under the provisions of section 181(a) of the CAA, and that EPA could not enforce an ozone NAAQS more quickly than contemplated under the provisions triggered by classifications under section 181(a) nor could EPA enforce an ozone standard, such as the 8-hour standard, that was more stringent than the 1-hour standard. [4] 175 F.3d at 1049–50. The court also held that EPA must consider the beneficial effects of tropospheric ozone in protecting against the harmful effects of ultraviolet rays (UV–B). 175 F.3d at 1051–53. The court remanded, but did not vacate, the 8-hour standard on the basis that it would not ''engender costly compliance activity'' in light of the court's decision ''that it cannot be enforced by virtue of CAA § 181(a).'' 175 F.3d at 1057. The EPA filed a petition for rehearing with respect to these three aspects of the court's decision. [5]

On October 25, 1999, EPA published the preamble to the proposed rule, ''Rescinding Findings That the 1-Hour Ozone Standard No Longer Applies in Certain Areas,'' (64 FR 57424), noting that the proposed regulatory language for part 81 would be published shortly. On November 5, 1999, EPA published the proposed regulatory language for part 81 (64 FR 60477). As proposed, the 1-hour ozone standard would be reinstated in areas where it had previously been revoked and the associated designations and classifications that previously applied in such areas with respect to the 1-hour NAAQS also would be reinstated. In today's final rule, EPA is taking final action to reinstate the area designations and classifications that applied prior to revocation. Throughout this final rule all references to reinstating designations refer to reinstating both designations and classifications as well. In addition, EPA proposed to amend 40 CFR 50.9(b) to provide by rule that the 1-hour ozone standard would continue to apply in all areas notwithstanding promulgation of the 8-hour standard, and that after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standard set forth in section 50.9(a) would no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard.

On October 29, 1999, the D.C. Circuit issued an opinion addressing EPA's petition for rehearing. *ATA* v. *EPA*, 195 F.3d 4 (D.C. Cir. 1999). The three-judge panel that decided the case granted rehearing on limited issues regarding EPA's ability to implement a revised ozone standard. Both the panel and the full court denied all other aspects of EPA's petition for rehearing.[6] With respect to EPA's authority to implement a revised 8-hour standard, the court modified its initial decision to provide that EPA may enforce a revised ozone NAAQS only in conformity with the control requirements triggered by a classification under section 181(a)—*i.e.,* the provisions in subpart 2 of part D of title I of the CAA. 195 F.3d at 8. Judge Tatel filed a separate opinion, holding that the court should have deferred to EPA's reasonable interpretation of the implementation scheme for the revised NAAQS, but concurring in the majority's decision because it ''leaves open the possibility that EPA can enforce the new ozone NAAQS without conflicting with subpart 2's classifications and attainment dates.'' 195 F.3d at 11.

At the request of commenters, on December 8, 1999, EPA published a notice in the **Federal Register** (64 FR 68659) to reopen the comment period for the proposed rulemaking from December 1, 1999 until January 3, 2000, thus affording the public a total of 60 days to comment on the proposed reinstatement action.

On January 27, 2000, EPA filed a petition with the Supreme Court, seeking review of the court of appeals decision regarding the constitutionality of the provisions of the CAA for setting NAAQS and the court's decision regarding implementation of a revised ozone NAAQS. Other parties also sought review by the Supreme Court.[7] The court granted EPA's petition on May 22, 2000.[8]

II. In Summary, What Action Is EPA Finalizing Today?

Today, we are taking final action to rescind the findings that the 1-hour standard no longer applies in those areas where the Agency had previously determined that the 1-hour standard had been attained. As a result, the 1-hour standard will again become applicable in nearly 3,000 counties.

Where the 1-hour ozone standard again becomes applicable as a result of this rulemaking, the attainment and nonattainment designations and classifications applicable to such areas prior to the determination of inapplicability will again apply. The designations are inextricably linked to the applicability of the standard and were removed solely because the standard no longer applied. *See e.g.,* Interim Implementation Policy Statement, 61 FR 65752, 65754 (Dec. 13, 1996) (''the designations would remain

[2] Two of these final actions were challenged and these cases are currently pending. *Environmental Defense Fund* v. *EPA*, (D.C. Cir., No. 98–1363) (challenge to June 1998 final rule); *Appalachian Mountain Club* v. *EPA*, (1st Cir., No. 99–1880) (challenge to June 1999 rule).

[3] These rules are commonly referred to as the ''revocation'' rules. Technically, however EPA did not revoke the 1-hour standard through these rulemakings. The 1-hour standard remains an effective regulatory standard under EPA's regulations. 40 CFR 50.9(a).

[4] Sections 172(a) and 181(a) provide EPA with authority to classify areas that are designated nonattainment and to set attainment dates for those areas. Section 172(a) applies generally to any new or revised NAAQS, while section 181(a) is specific to certain ozone nonattainment areas.

[5] The court decided other issues raised by the petitioners. These issues were not raised on rehearing and are not relevant here.

[6] The full court voted 5–4 in favor of rehearing with two judges not participating. Since a majority vote of the active members of the court is needed to grant rehearing, the request for rehearing was denied.

[7] The American Lung Association and the Commonwealth of Massachusetts and State of New Jersey also filed petitions for certiorari. In addition, groups led by the American Trucking Associations and Appalachian Power Company filed conditional cross petitions for certiorari.

[8] The court also granted the industry cross petitions regarding the consideration of costs in setting NAAQS on May 30, 2000.

in effect so long as the current 1-hour ozone NAAQS remains in effect''). Thus, since the only basis for removing the designations was the inapplicability of the 1-hour standard, area designations for the standard must also be reinstated upon reinstatement of the 1-hour standard.

Given that the previous designations and classifications of these areas were based upon the 1-hour ozone standard, which will again apply as a result of this reinstatement action, EPA is amending the tables in part 81 of the CFR to identify the designation and classification of the area that applied prior to EPA's determinations that the 1-hour standard no longer applied. The regulatory language located at the end of this final rule amends the ozone tables in 40 CFR part 81 for each State and provides a list of the areas affected by this rule. A copy of these tables may also be viewed at the following Internet website address: *http://www.epa.gov/ttn/oarpg.* In addition, the areas are identified by air quality designations in the docket for this rulemaking at Docket No. A–99–22.

The EPA's regulation, 40 CFR 50.9(b), provides that the 1-hour ozone standard would no longer apply once EPA determined that an area attained that standard. Today's action revises section 50.9(b) to indicate that the 1-hour standard remains applicable to all areas notwithstanding the promulgation of the 8-hour standard. Furthermore, today's action establishes that after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standard set forth in section 50.9(a) will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard.

In light of many areas' needs to quickly develop additional State Implementation Plan (SIP) programs in response to the actions EPA is finalizing today, the actions finalized today will become effective 90 days after today's publication for most areas. However, for areas that were designated nonattainment prior to revocation but that currently have clean air quality data sufficient to support a redesignation to attainment, actions will not generally become applicable until 180 days after today's publication.[9] This additional time will allow areas to submit redesignation requests and, if they do so, for EPA to take appropriate rulemaking action on such requests prior to the applicability date of this rule for the area.

III. What Major Comments Were Submitted on the Proposed Rule and What Are EPA's Responses to Such Comments?

In our October 25, 1999 proposal, we solicited comment on whether EPA should rescind findings that the 1-hour ozone standard no longer applies in certain areas, and if EPA acted to rescind the 1-hour ozone standard, what the effects of a rescission would be. In section IV of the proposal, EPA specifically requested comment on the effect of the rescission for five types of areas: (1) Areas designated as attainment with no violation since revocation; (2) areas designated attainment (without maintenance plans) with violations since revocation; (3) areas designated attainment (with maintenance plans) with violations since revocation; (4) areas designated nonattainment with no violations since revocation; and (5) areas designated nonattainment with violations since revocation. Also, the Agency requested comment on the programmatic effects of reinstatement, such as the applicability of new source review (NSR) and conformity, as well as how to deal with sanction and Federal Implementation Plan (FIP) clocks that were in effect at the time of the revocations. A total of 72 comment letters were received on the proposal. Most of the commenters generally supported reinstating the 1-hour standard; however, they voiced individual preferences as to how EPA should proceed to carry out this action with respect to designations, planning obligations and timing. For each of the relevant issues, the following discussion summarizes EPA's proposed action, explains the approach EPA is adopting in this final rule and responds to the major comments received. All comments are addressed in the separate Response to Comments Document located in the docket.

A. Reinstatement of the Applicability of the 1-Hour Ozone Standard and the Designation and Classification That Existed for Each Area at the Time EPA Determined the Standard No Longer Applied

The EPA generally proposed to reinstate the applicability of the 1-hour standard in all areas for which EPA had taken action determining that the standard no longer applied. In addition, EPA proposed that the designation and classification for each such area would also be reinstated. The EPA proposed to restore areas to the same position they were in at the time EPA determined that the 1-hour standard no longer applied, *i.e.,* that the designation and classification that applied at the time the 1-hour standard was revoked for an area would once again apply upon reinstatement.

Comment: Several commenters believe that the Agency has no legal authority to rescind findings that the 1-hour ozone standard no longer applies in certain areas. Some commenters claim that EPA cited no statutory authority for its action and that none exists. At least one commenter contends that EPA's regulation at 40 CFR 50.9(b) does not provide a basis for reinstating the 1-hour standard and challenges EPA's statements that the basis for promulgating 40 CFR 50.9(b) was the existence of an enforceable 8-hour standard.

Response: The EPA disagrees with the commenters' allegations that EPA has no authority to rescind its findings that the 1-hour standard no longer applies in certain areas. The EPA made those findings in accordance with its rule at 40 CFR 50.9(b), which provided that the 1-hour standard would no longer apply once an area attained that standard. The EPA promulgated that regulation using its general rulemaking authority under section 301(a) of the CAA and thus has authority to revise that regulation (and to revise or repeal actions taken pursuant to that regulation) under that same authority. The changed circumstances regarding the status of the 8-hour standard provide ample support for EPA to take this regulatory action under section 301(a).

Sections 108 and 109 of the CAA provide for the promulgation or revision of NAAQS on a periodic basis. However, those provisions are silent regarding how areas should transition

[9] The EPA notes that in the proposal for this action, EPA proposed to make the final reinstatement effective after 90 days for all areas, and specifically requested comment on this issue. Certain commenters requested a longer delay in the effective date of the rule, and EPA has agreed that for areas with clean data that were previously designated nonattainment a longer period would be appropriate. However, ''effective date'' is a term of art relating to when rules published in the **Federal Register** will be incorporated in the Code of Federal Regulations, and Office of Federal Register requirements do not allow varying effective dates for entries in a table. Therefore, this action as a whole will become effective for all areas 90 days after publication. However, EPA will use the term ''applicability date'' in the rule to describe the date on which the reinstatement of the 1-hour standard will begin to apply to an area. That date will generally be 180 days after publication for those areas with clean data previously designated nonattainment, as listed in Table 1 of the preamble. In addition, if States are able to submit redesignation requests and EPA is able to process such requests to the point of final action prior to 180 days from publication, the final action approving the redesignation may provide that the applicability date of the reinstatement will be the same date as the effective date of the redesignation approval, so that the redesignations may take effect in a timely manner.

from implementation of one NAAQS for a pollutant to a revised, more stringent NAAQS for the same pollutant.[10] Where, as in the rule promulgating the revised 8-hour NAAQS, EPA determines not to retain the pre-existing standard as an independent NAAQS, EPA must determine how areas should transition away from the pre-existing NAAQS. Since the CAA does not include specific provisions addressing this transition, EPA relied on its general rulemaking authority under section 301(a) of the CAA. *See* 62 FR 38894, July 18, 1997. Section 301(a) provides that the Agency has authority ''to prescribe such regulations as are necessary to carry out'' its functions under the CAA. In general, the statutory authority for promulgating a regulation also provides authority for an Agency to revise that regulation. The EPA is relying on its general rulemaking authority under section 301(a) to rescind the findings that the 1-hour standard no longer applies.

The present circumstances provide ample support for EPA to take this action rescinding its earlier determinations. The EPA promulgated 40 CFR 50.9(b) based on the existence of an implementable 8-hour standard. In promulgating a revised 8-hour standard, EPA determined that it did not need to retain a separate 1-hour standard in order to protect the public health with an adequate margin of safety and to protect public welfare (62 FR 38863, July 18, 1997). Thus, EPA needed to consider how to transition away from the existing 1-hour standard to the revised 8-hour standard. *See e.g.,* Proposed Interim Implementation Policy, (61 FR 65752, December 13, 1996). In the final rule promulgating the revised 8-hour standard, EPA concluded that Congress intended areas to remain subject to the planning requirements of subpart 2 [11] of the CAA for as long as they continued to have air quality not meeting the 1-hour standard. In order to facilitate the continued applicability of subpart 2 to areas that had not yet met that standard, EPA determined to delay removal of the 1-hour standard from its regulations by promulgating 40 CFR 50.9(b). It is clear from the context of the rule and the statements in the preamble to the final 8-hour NAAQS rule that the decision to find that the 1-hour standard no longer applied was based on the existence of an enforceable 8-hour standard that was protective of public health and welfare, such that the 1-hour standard would no longer be necessary to protect public health and welfare. (62 FR 38873, July 18, 1997.)

However, because the court decision has raised doubts about the enforceability of the 8-hour standard and EPA's ability to implement the standard fully at this time, the basis for the regulation revoking the applicability of the 1-hour standard in certain areas no longer exists. Contrary to what EPA believed would occur at the time it promulgated 40 CFR 50.9(b), generally areas are not currently moving forward to implement the 8-hour standard due to the uncertainty created by the litigation over the ozone NAAQS. Thus, EPA believes that it is necessary at this time to retain the 1-hour standard in all areas to protect public health and welfare at least until the status of the 8-hour standard and any issues concerning its enforceability have been fully resolved.[12]

Comment: Some commenters believe that the proposed action to reinstate the 1-hour ozone standard constitutes promulgation of a new or revised NAAQS under section 109 of the CAA and that the action is therefore subject to a public hearing under section 307(d). Other commenters contend that EPA must or should vacate the 8-hour standard before EPA can reinstate the applicability of the 1-hour standard. These and other commenters contend that section 109 contemplates only a single air quality standard for a particular pollutant in any given area and, therefore, object to having dual standards apply. They also claim that the existence of two ozone standards is confusing.

Response: The EPA does not believe that the action to reinstate the 1-hour standard constitutes the promulgation of a new or revised NAAQS under section 109 of the CAA. The 1-hour standard EPA is reinstating today is the same 1-hour standard that has been in existence since its original promulgation on February 8, 1979 and that continues to be a part of EPA's regulations at 40 CFR 50.10, (44 FR 8202). The EPA is not revising that standard in any way. The EPA is merely reinstating the applicability of that standard in certain areas. Unlike a regulatory action promulgating a new or revised NAAQS, this rulemaking is not concerned with selecting the appropriate level or form of ozone standards requisite to protect public health and welfare. The particular processes specified in sections 108 and 109, requiring the development of detailed scientific assessments and consultation with science advisory boards, are not implicated by this action. The EPA undertook those processes when it promulgated the 1-hour standard in 1979. This action does not purport to revise or re-promulgate that standard; it only specifies the applicability of the existing 1-hour standard, which is specified in section 50.10, to certain areas.

Because this action rescinding a previous regulatory determination and revising the regulation governing the transition from the 1-hour to a revised 8-hour NAAQS does not constitute either an amendment or revision to either the 1-hour or the 8-hour ozone NAAQS, EPA disagrees with the commenters that the procedural provisions in section 307(d) are triggered by section 307(d)(1)(A) (requiring compliance with section 307(d) for all rules promulgating or revising any NAAQS). Since the administrative requirements of section 307(d) do not apply, EPA has complied with the public notice and comment process specified under the Administrative Procedure Act, 5 U.S.C. 553, which does not require the Agency to hold a public hearing.

Nor does EPA agree that the proper approach is to vacate the 8-hour standard. In the *ATA* decision, the D.C. Circuit did not dispute the public-health basis for the NAAQS and did not vacate the 8-hour standard. The EPA sees no reason to take such an action on its own. The EPA has filed with the Supreme Court a petition for review of the D.C. Circuit's decision. The EPA sees no need to vacate the 8-hour standard for the purpose of revising the transition scheme from the 1-hour standard to the 8-hour standard. Because the CAA does not provide how EPA must transition from one standard for a pollutant to a revised, more stringent standard for that same pollutant, EPA continues to believe it has authority to establish and to revise the appropriate transition scheme. Due to the uncertainty created

[10] Section 172(e) provides guidance for transitioning from a more stringent NAAQS for a pollutant to a less stringent NAAQS for the same pollutant.

[11] Subpart 2 of part D of title 1 provides detailed requirements for certain ozone nonattainment areas. These provisions were enacted in 1990 in response to the States' continued failure to meet the ozone standard. Rather than providing continued flexibility and a one-size-fits-all approach, Congress created a tiered planning scheme that provided more and tougher requirements for areas with significant ozone problems, but also provided more time for these areas to meet the standards.

[12] The fact that EPA's regulation at 40 CFR 50.9(b) does not reference the 8-hour standard is not controlling for determining the underlying basis for EPA's promulgation of that regulation. The fact that 50.9(b) was promulgated simultaneous with the 8-hour standard and placed in the subchapter of the CFR governing NAAQS is sufficient evidence that § 50.9(b) was premised on the existence of the 8-hour ozone standard. Furthermore, it is clear from the preamble that EPA believed that the 8-hour standard would be enforceable, (62 FR 38856, July 18, 1997).

by the court's opinion, EPA believes it is a reasonable exercise of its authority to revise the transition scheme by reinstating the applicability of the 1-hour standard and the associated designations and classifications. For these reasons, EPA does not agree that it must vacate the 8-hour standard in order to reinstate the applicability of the 1-hour standard.

To the extent the commenters are concerned about the existence of two NAAQS for the same pollutant, EPA made the decision in the 1997 NAAQS rulemaking by determining to retain the 1-hour standard until areas met that standard. As provided above, EPA is not taking action to revise or promulgate a revised NAAQS in this rule and is not re-opening its previous decision that the statute allows the applicability of more than one NAAQS for a pollutant, such as ozone.

Comment: Some commenters claim that EPA cannot restore the designation for areas except through one of the designation processes provided under section 107 of the CAA. Some commenters contend that EPA should treat these designations as initial designations under section 107(d)(1) and that EPA should provide time for Governors to make recommendations before EPA may designate areas. Other commenters contend that EPA must use the redesignation provisions under section 107(d)(3). Under that provision, they contend, EPA must notify the Governor first of its intent to redesignate and then must rely on current air quality data.[13] Some of these commenters agree with EPA that the designation in place at the time EPA revoked the standard should be put back into place. Other commenters suggest that EPA cannot consider air quality data from the period when the standard did not apply and that EPA should reinstate designations based on air quality data from the period after the standard is reinstated.

Response: The EPA does not believe it needs to go through the procedures of section 107 of the CAA to reestablish the designations that were in place prior to revocation of the 1-hour standard. In this action, EPA is reversing its revocation of the standard because the recent court decision has called into question the underlying bases for that action. In the revocation action, EPA did not change an area's designation for the 1-hour standard, but determined that since the 1-hour standard no longer applied to an area, the designation associated with that standard also no longer applied.[14]

As explained above, EPA's action today is not the promulgation of new or revised NAAQS. Therefore, the initial designation provisions in section 107(d)(1), which apply only upon promulgation of a new or revised NAAQS, do not apply.

Nor is EPA redesignating areas for purposes of the 1-hour standard. These areas currently do not have in place a designation for the 1-hour standard. The provisions in section 107(d)(3), which apply only to redesignations from attainment or unclassifiable to nonattainment or from nonattainment to attainment simply do not apply where, as here, there is not a current designation in place for a standard.

The EPA's primary action through this action is to reinstate the applicability of the 1-hour standard. At the time EPA promulgated 40 CFR 50.9(b), it determined that the designations should follow the applicability of the 1-hour standard and that the current designation was inextricably linked with the applicability of the 1-hour standard. Therefore, just as EPA determined that an area's designation no longer applied once the 1-hour standard on which it was based no longer applied, the reinstatement of the 1-hour standard necessarily brings back the applicability of the designation. Similarly, as EPA relied on its general rulemaking authority to revoke the standard and thus the area's designation, EPA is relying on that same authority to reverse the action taken in its earlier rule. Once areas have a designation for the 1-hour standard in place, EPA may redesignate those areas if they meet the requirements of section 107(d)(3)(E). As discussed in section III.F, below, EPA will consider redesignating those areas that have clean air quality data based on the three most recent years of data and that submit a redesignation request meeting the requirements of section 107(d)(3)(E).

Finally, some commenters suggest that EPA is prohibited from considering air quality data that became available after EPA revoked the standard. The EPA disagrees with this comment. Because EPA is reinstating the designations that existed at the time EPA revoked the standard, this rulemaking does not reflect more recent air quality data. However, in future actions to redesignate areas, EPA intends to consider all relevant air quality data including data that became available during the revocation. To the extent these commenters continue to have concerns about this issue, they can raise them in any future rulemaking action EPA may take to redesignate an area on the basis of that data.

Comment: A few commenters stated that we cannot rely on the argument that the 8-hour standard cannot be enforced as the basis for revocation since this is not supported by the Court's October 29, 1999, decision on rehearing. In the October 29 opinion, the Court retracted its earlier conclusion that ''the 8-hour standard cannot be enforced,'' providing instead that the 8-hour standard ''can be enforced only in conformity with subpart 2'' of part D of title I of the CAA. *Compare* 175 F.3d at 1057 *with* 195 F.3d at 10. Some commenters also suggest that it is too late for us to reconsider the revocations and to reinstate the applicability of the 1-hour standard. Most commenters, however, support reinstatement on the basis of continued uncertainty regarding the 8-hour standard.

Response: The EPA believes that the uncertainty engendered by the litigation surrounding the 8-hour standard justifies reinstating the 1-hour standard. It is true, that on rehearing, the Court revised its original opinion to indicate that EPA can enforce the 8-hour standard in conformity with subpart 2 of the CAA. However, in that same sentence, the Court provided that it was remanding the 8-hour standard. The Court did not vacate the 8-hour standard because ''the parties have not shown that the standard is likely to engender costly compliance activities.'' As the petitions for certiorari before the Supreme Court demonstrate, there continues to be uncertainty regarding when the standard could be implemented in light of the ongoing litigation.[15] Because of the continuing litigation and the differing views of the many parties to the litigation, EPA is not currently taking any action that could be construed as inconsistent with the

[13] Other commenters, without referencing any specific statutory authority, also claim that EPA should use current air quality data to designate areas.

[14] In revoking the standard, EPA did not redesignate areas pursuant to section 107 and did not require areas to meet the redesignation requirements of section 107(d)(3)(E), such as development of a maintenance plan. In fact, EPA has been challenged on two of the revocation rules for not following, and not requiring States to follow, redesignation procedures. *Environmental Defense Fund* v. *EPA,* (D.C. Cir., No. 98–1363); *Appalachian Mountain Club* v. *EPA,* (1st Cir., No. 99–1880).

[15] In addition to EPA, two other parties have requested that the Supreme Court review portions of the D.C. Circuit's decision regarding the ozone and particulate matter NAAQS. Other parties have opposed Supreme Court review of the implementation issues. In their papers before the Court, several of these parties have suggested that EPA is barred from enforcing the more stringent 8-hour NAAQS, while others raise concerns that the Court's opinion is unclear regarding the enforceability of the 8-hour standard.

Court's decision.[16] In light of the continuing uncertainty regarding EPA's authority to implement the 8-hour standard, EPA believes it is prudent to reinstate the 1-hour standard to ensure public health protection from ozone.

Contrary to the suggestions of some commenters, EPA does not believe it is too late to rescind the revocations of the 1-hour standard. The commenter does not cite and EPA is unaware of any limitation on when an Agency may change a regulation based on new information. The EPA acted quickly in response to the uncertainty raised by the Court's decision, proposing action only 5 months after the original decision by the court. During that time, EPA was assessing the impacts of the opinion on implementation of the 8-hour standard, determining options for rehearing and appeal, and developing the proposed rule to rescind the revocations of the 1-hour standard. Based on requests for an extension of the comment period, EPA provided a comment period of 60 days on this action. Thus, EPA is acting in a timely fashion by issuing this rule approximately a year afer the court issued its original decision.

Comment: A few commenters suggested that EPA was proposing to reinstate the standard in too many areas. One set of commenters noted that EPA's goal of providing protection in areas now violating the 1-hour standard could be accomplished by reinstating the standard only in those areas that were violating the 1-hour standard. Other commenters suggested that we not reinstate the 1-hour standard in States that have adopted the 8-hour standard or where the most recent data for an area indicate that it would be designated attainment for the 8-hour standard. These commenters are concerned that resources will be wasted on meeting the 1-hour standard rather than the more protective 8-hour standard.

Response: The EPA determined that it is critical to have a fully enforceable standard for ozone in each area of the country in order to protect the public health and welfare and to minimize public confusion. The EPA believes that it is important to have a fully-implementable ozone standard in place in order to ensure adequate protection of public health. A fully enforceable 1-hour standard will ensure that sufficient control measures remain in place to prevent violations in areas attaining the standard and to continue improvements in air quality in areas not attaining the standard. The options presented by the commenters would not result in the applicability of a fully-enforceable ozone standard and thus could erode public health protection for people living and working in areas that might violate the standard in coming ozone seasons.

With respect to those commenters that suggest that EPA not reinstate the standard in areas that have adopted the 8-hour standard, EPA is concerned, in light of the *ATA* decision, that it will be unable to enforce fully the 8-hour standard in the short term. Without a fully enforceable, Federal 8-hour standard, EPA does not have the ability to require States to implement an 8-hour standard. This is true even in States that may have adopted the 8-hour standard as a State rule. Since State adoption of the 8-hour standard does not ensure implementation and enforcement of that standard in conformity with Federal requirements for clean air, EPA believes it is necessary to reinstate the 1-hour standard in all areas pending resolution of litigation over the 8-hour NAAQS. The EPA acknowledges that it may be more efficient to concentrate resources on planning to implement a more protective 8-hour standard, but EPA lacks the ability to require States to do so at this time. For these reasons, EPA believes that the existence of the 8-hour standard does not provide the same certainty of public health protection as does the 1-hour standard at this time.

Finally, with respect to the comment that EPA not reinstate for areas that will be designated attainment for the 8-hour standard, EPA has not designated any areas for the 8-hour standard. The States have not recommended boundaries for purposes of the 8-hour standard and EPA has not yet determined boundaries or designated any 8-hour areas. In fact, EPA guidance on the determination of boundaries was issued only recently. (Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards (NAAQS or Standard), March 28, 2000). The EPA has advised States to consider the guidance and make recommendations to EPA by June 30, 2000. The EPA must then respond to those recommendations and give States 4 months comment on its response. Only after this process could EPA make final designations. Given the many steps that must occur before EPA promulgates designations for the 8-hour standard, EPA believes it is far too early to presume precisely which areas would be designated attainment for the 8-hour standard.

B. Revision to 40 CFR 50.9(b) to Provide That EPA Will Again Determine the 1-Hour Ozone Standard No Longer Applies to an Area Once EPA's Authority to Implement and Fully Enforce the 8-Hour Standard Is No Longer in Question

The EPA proposed to revise 40 CFR 50.9(b) to provide that once the 8-hour ozone standard is fully enforceable and no longer subject to legal challenge, the 1-hour standard will no longer apply to an area if EPA determines that the area has air quality meeting the 1-hour standard.[17] The EPA's final rule adopts this position.

Comment: Some commenters disagree with EPA's proposed revision to § 50.9(b). These commenters feel that the promulgation of an 8-hour standard should not be the basis for revoking the applicability of the 1-hour standard. Some of the commenters believe that removing the applicability of a NAAQS and associated control measures based solely on air quality is inconsistent with the law and that we should consider both the 1-hour and 8-hour ozone standards. Some commenters believe that future revocations should not be allowed without first following the redesignation process as prescribed by the CAA. Other commenters suggest that once the 8-hour ozone standard is enforceable, we should revoke the 1-hour standard everywhere regardless of what the air quality is. Finally, one commenter claims that EPA should not amend section 50.9(b) now since the 8-hour standard may never be enforceable.

Response: The EPA believes that it has the authority upon issuance of a new or revised standard to determine the continued validity of the pre-existing standard and when, if ever, it should no longer apply. In the final rule promulgating the 8-hour standard, EPA determined that the 1-hour standard was no longer necessary to protect public health and welfare in light of the revised 8-hour standard, which States would be required to implement and enforce. However, EPA also determined that Congress intended areas that remained nonattainment for the 1-hour standard to meet the requirements of subpart 2, until the 1-hour standard is attained. As EPA explained in the

[16] For example, EPA has stayed the applicability of its final regulatory determinations under section 126 of the CAA to the extent they were based on the 8-hour NAAQS. (65 FR 2674, January 17, 2000). Similarly, EPA recently proposed to stay the 8-hour basis of its NO_x SIP call rule, which calls on 22 States and the District of Columbia to reduce emissions of nitrogen oxides that contribute to ozone problems in other States. (65 FR 11024, March 1, 2000).

[17] If the 8-hour standard promulgated in July 1997 does not become enforceable because of Agency action taken in response to any unappealable decision by the court in the *ATA* v. *EPA* litigation, then the second sentence of 40 CFR 50.9(b) would not have any legal effect. As appropriate, EPA could reconsider this regulation at the time it takes any action in response to an unappealable decision.

preamble to the NAAQS rule, section 109 of the CAA clearly authorizes EPA to promulgate revisions to a standard, which necessarily includes the authority to revoke previous standards that have been revised (62 FR 38857, July 18, 1997). On the other hand, subpart 2 of the CAA sets out numerous requirements specifically applicable to areas not attaining the 1-hour ozone standard. To accommodate both of these provisions, EPA concluded that after promulgation of the 8-hour standard, subpart 2 must continue to apply as a matter of law in each area until the 1-hour standard is attained (62 FR 38873). Thus, to facilitate continued applicability of the subpart 2 requirements, EPA established a transition scheme in 40 CFR section 50.9(b) that provided the 1-hour standard would continue to apply until an area had air quality meeting the 1-hour standard.

The EPA does not agree that in order to determine a pre-existing standard no longer applies, EPA must require areas to meet the requirements for redesignation and formally redesignate an area from nonattainment to attainment under section 107(d)(3). As a general matter, Congress has not specified any procedure for determining that a pre-existing NAAQS no longer applies once EPA promulgates a revised standard. Moreover, although Congress gave some guidance on how to transition to a less stringent NAAQS, *see* CAA section 172(e), it did not provide clear guidance on how to transition to a more stringent NAAQS. The EPA believes that in determining how to transition to a revised NAAQS, it must make common-sense decisions, considering the intent of Congress in light of the statutory scheme, including how best to ensure public health protection without imposing unduly burdensome requirements on States and sources.[18]

With respect to the transition from the 1-hour standard to the 8-hour standard, EPA determined that Congress intended areas to remain subject to the 1-hour standard until such time as that standard is met. Since all areas of the country were subject to the revised, more stringent 8-hour standard, EPA determined that it did not make sense to require areas that had met the 1-hour standard but remained designated nonattainment to complete a maintenance plan since generally these areas would be required to develop an attainment plan for the more stringent 8-hour standard. The EPA continues to believe that, if a fully enforceable 8-hour standard were in effect, it would be unreasonable to require States to demonstrate that an area will maintain the 1-hour standard for 10 years (with a later update for a subsequent 10 years) when these areas would be developing attainment plans and, ultimately, maintenance plans for the more stringent 8-hour standard.

This interpretation is consistent with the approach Congress employed in the one area where the statute does address revocation of a prior standard. Section 172(e) of the CAA provides that where EPA relaxes a standard, it must require all areas that have not yet attained the more stringent prior standard to provide for controls that are at least as stringent as those that applied to areas designated nonattainment of the prior standard. This provision both clarifies that Congress intended EPA to revoke standards and associated control requirements in certain circumstances where they have been revised, and that an appropriate criterion for determining when a prior standard should be revoked is whether or not an area has attained that standard. Congress did not, however, require redesignation of areas with development of maintenance plans prior to removal of control obligations. Rather, Congress required only that control measures continue to apply until an area has attained a prior standard and implicitly allows for revocation of the prior standard.

The EPA also disagrees with the commenter who suggests that EPA should not amend § 50.9(b) because it has been struck down by the court and that the 8-hour standard might never be enforceable. The EPA disagrees with the claim that the court struck down 40 CFR 50.9(b). The court did not vacate any aspect of EPA's July 1997 rulemaking, which included the promulgation of section 50.9(b).[19] The EPA believes that its proposed revision to section 50.9(b) addresses the contingency that the 8-hour standard may never become enforceable. The EPA believes that it is better to promulgate revisions to section 50.9(b) at this time so that interested parties are aware of EPA's planned transition approach if and when the 8-hour standard becomes fully enforceable.

Finally, for the reasons explained above, EPA believes that subpart 2 continues to apply as a matter of law to all areas that have not yet attained the 1-hour standard. Therefore, EPA does not believe it has the authority to determine the 1-hour standard inapplicable to any area that has not yet attained that standard, even after the 8-hour standard has become fully enforceable.

C. Areas Designated as Attainment With No Violations Since Revocation

The EPA proposed that upon reinstatement of the standard, areas designated as attainment with no violations after revocation would not be subject to any new planning requirements under subpart 2 of the CAA, beyond continuing compliance with any requirements in an approved maintenance plan. The EPA is adopting this position in today's action.

Comment: Some commenters contend that all areas designated as attainment should be treated on an equal basis. The EPA should either require all attainment areas to have maintenance plans, including the obligation to comply with conformity, or free all areas from the maintenance plan requirement.

Response: The EPA does not have the authority to require all areas designated as attainment either to have a maintenance plan or to relieve them of that obligation. The CAA specifically provides that areas seeking redesignation from nonattainment to attainment must develop and submit maintenance plans. Upon redesignation, these areas are required to continue to implement their maintenance plans, including complying with the conformity provisions. Areas that were initially designated as attainment after the 1990 CAA Amendments are not subject to this requirement. In addition, section 176(c)(5)(B) of the CAA makes clear that areas with maintenance plans continue to be subject to conformity and that areas that have historically been designated as attainment are not subject to conformity.

D. Areas Designated Attainment (Without Maintenance Plans) With Violations Since Revocation

The EPA proposed to provide areas designated attainment without

[18] EPA's scheme for transitioning to the 8-hour ozone standard is consistent with the Agency's approach in the one other case where it promulgated a more stringent NAAQS revision. *See* 52 FR 24672 (July 1, 1987). When EPA revised the particulate matter standard to change the indicator from total suspended particulates (TSP) to particulate matter with a diameter of 10 microns or less (PM–10), it retained the TSP designations for a limited purpose because the statutory limitations for certain areas under the Prevention of Significant Deterioration (PSD) program were linked to TSP designations. *See* CAA section 163. Congress subsequently codified EPA's decision in section 107(d)(4)(B) of the CAA. Similarly, EPA here is retaining the 1-hour standard and associated designations for purposes of continued application of subpart 2 of the CAA, until the purpose of subpart 2—attainment of the 1-hour standard—is met.

[19] Furthermore, no party in the *ATA* case challenged EPA's promulgation of 40 CFR 50.9(b) and the court did not address this regulatory provision in either its May 14, 1999 or its October 29, 1999 decisions.

maintenance plans, that have had violations since revocation, a reasonable time to come back into attainment prior to taking action to designate them as nonattainment. There are only four areas which fall into this category: Berrien Co., MI; Hamilton Co., IN; Hamilton Co., TN; Rowan Co., NC.

Comment: Several commenters asked that we define what is a ''reasonable time frame'' to bring areas back into attainment. Some commenters reference measures that States have already taken to address ozone problems.

Response: The CAA does not mandate that EPA redesignate areas from attainment to nonattainment. Rather, section 107(d)(3)(A) provides the general criteria that EPA may consider in determining whether to redesignate an area.[20] In particular, EPA may consider air quality data, planning and control considerations or any other air-quality related considerations.

The Agency commends areas for any initiatives they may have taken, such as voluntary emission reduction programs, to help improve air quality. The EPA will consider this information in determining whether and when to move forward with a redesignation to nonattainment. States should work with the appropriate EPA Regional Offices to determine whether additional measures are necessary to address a recent violation.

To the extent additional measures are needed, EPA believes that it is reasonable for States to adopt measures to address any violations within 6–9 months of the effective date of this final action. The EPA is recommending 6–9 months as the presumptive period for action, however, each State should work with the relevant EPA Regional Office to develop a strategy for specific areas. States have been on notice of EPA's planned reinstatement of the standard and should have begun an analysis of measures to address any violation. In addition, since reinstatement for these areas will not be effective until 90 days after publication of this final action in the **Federal Register**, this approach will allow States 9–12 months from promulgation of this final rule to adopt any necessary measures and well over a year from the time of EPA's proposal to reinstate the standard. The EPA believes that this period is comparable to the 1-year time period provided under section 179(d) for States to adopt measures based on a finding that the State failed to attain the standard.

[20] For areas designated as nonattainment seeking redesignation to attainment, section 107(d)(3)(E) sets forth additional criteria that must be met before EPA may redesignate the area.

E. Areas Designated Attainment (With Maintenance Plans) With Violations Since Revocation

For areas designated attainment with maintenance plans and with violations since revocation, EPA proposed that the contingency measures in the area's approved SIP should be implemented to address any violations of the 1-hour ozone standard. If a State had removed any contingency measures after EPA determined the 1-hour standard no longer applied, EPA proposed the State should place the contingency measure back into the SIP. There are seven areas which fall into this category: Charlotte-Gastonia, NC; Huntington-Ashland, WV–KY; Knoxville, TN; Nashville, TN; Portland-Vancouver Air Quality Management Area, OR–WA; Richmond, VA; Sheboygan, WI.

Comment: Several commenters question whether it is appropriate to require States to implement contingency measures and question whether contingency measures will provide any real air quality benefits. They disagree that automatic implementation of such measures is the correct solution to addressing the current air quality problem. Some commenters believe that since the 1-hour standard did not apply in the areas after revocation, the areas cannot be considered to be violating the 1-hour standard based on data from that time; thus in their view, violations that occurred after revocation but prior to reinstatement cannot trigger contingency measures. Some commenters argue that even if a violation occurred during the period in which the standard was revoked, the most recent 3 years of air quality data should have precedence. They state that if those data indicate the area is not violating the standard, the State should not be required to implement contingency measures.

In addition, some commenters were concerned that the schedule specified in the SIPs for implementation of contingency measures is often triggered as of the date of the violation. Thus, under these SIPs, some portion of the implementation period may already have passed by the time the reinstatement becomes effective.

Other commenters claim that EPA should use its authority under section 110(k)(6) to place deleted contingency measures back into the SIP. Section 110(k)(6) provides that EPA may revise its prior approval removing the contingency measures if it determines that the approval action was in error.

Response: Section 175A(d) of the CAA requires that a maintenance plan include such contingency measures as are necessary to promptly correct any violation of the NAAQS that occurs after redesignation of the area. The EPA believes that areas designated as attainment that have maintenance plans in place and that have had violations of the NAAQS since revocation, are required by the CAA and by their approved SIPs to move forward to implement contingency measures. Since the purpose of these measures is to protect public health, EPA believes it is appropriate to require areas to implement contingency measures to ensure that future air quality will meet or be lower than the NAAQS.

The EPA has allowed States a great deal of flexibility with respect to contingency measures. First, EPA has allowed flexibility in terms of the selection and adoption of contingency measures for the maintenance plan. The EPA does not require that contingency measures be fully adopted in order for the maintenance plan to be approved. The maintenance plan need only ensure that the contingency measures be adopted expeditiously once they are triggered. (Procedures for Processing Requests to Redesignate Areas to Attainment, September 4, 1992, John Calcagni).

In addition, when an area violates the standard, States have discretion in selecting which of the contingency measures in the approved maintenance plan should be implemented. In the past, EPA has allowed States to substitute and implement new, more appropriate and effective contingency measures. (64 FR 28753 and 64 FR 28757, May 27, 1999). The EPA would allow States with areas violating the standard to do so here through the SIP process, if substitution of measures would not unreasonably delay air quality benefits. Therefore, if, as at least one commenter suggests, existing, approved contingency measures may no longer be appropriate or effective, the State may seek a substitution. However, the fact that existing contingency measures may not be effective or appropriate does not support a decision not to require implementation of contingency measures to address the air quality problem.

Finally, although EPA has indicated that it would provide a reasonable period of time for violating attainment areas without maintenance plans to correct their air quality problem before designating them to nonattainment, EPA does not believe it has the ability to delay the triggering of the States' obligation to select and adopt contingency measures for areas with maintenance plans that are experiencing violations. The CAA contemplates that

contingency measures will be implemented ''promptly'' in such areas. In addition, the terms of the maintenance plans themselves require adoption and implementation of contingency measures upon violations. Thus, the CAA requires areas to adopt appropriate contingency measures once violations occur. States may submit SIP revisions to substitute appropriate measures at any time.

The EPA disagrees that violations are not valid if they occurred during the period when the 1-hour standard did not apply for an area. The fact that an air quality standard does not apply during a period of time does not invalidate air quality data gathered at that time or invalidate the exceedances or violations demonstrated by that data. In fact, the statutory period for initial designations belies that interpretation. Under section 107(d)(1), Governors must recommend designations within 1-year of promulgation of a standard and EPA must designate areas within 2 years of promulgation. For standards that are measured over a period of longer than 2 years, such as the 1-hour and 8-hour ozone standards, EPA would necessarily be required to consider monitoring data that preceded promulgation of the standard in making designations. In addition, the State and sources are not unreasonably disadvantaged. The EPA is not requiring that the time for States to implement contingency measures runs from the time of the violation, but rather from the effective date of the reinstatement of the standard.

This approach is consistent with the approach EPA is taking concerning tolling of applicable clocks for conformity obligations and sanctions. As EPA states elsewhere in this notice (sections III.I and III.J), EPA believes that clocks related to the timing of conformity determinations and sanctions should not be considered to have run during the period that the 1-hour standard was not applicable to an area. It would be unfair to areas to have such clocks expire during a time that the area was not subject to the planning obligations associated with the clocks. Thus, EPA has concluded that any such clocks would be tolled during the time the standard was not applicable. When this rule becomes applicable, the clock will begin to run again based on whatever time remained when EPA revoked the standard for an area. Similarly, EPA believes that the duty to implement contingency measures should be triggered on the effective date of this reinstatement action rather than the date of any past violation.

If an area has a SIP in which the timing for contingency measures is triggered on the date of the violation, EPA believes that it would be appropriate to interpret the violation as occurring on the effective date of the reinstatement. If States still remain concerned about the approved language in existing SIPS regarding the timing for triggering contingency measures, they should work with the relevant EPA Regional Office to determine an appropriate manner to address the issue. Since the 1-hour standard was not in effect for the area during the revocation period, EPA does not believe that the area should be subject to a shorter time than contemplated in the State's adoption and EPA's approval of the SIP.

With respect to commenters that claim that an area may have had a violation (during 1996–1998) and once again is attaining (during 1997–1999), EPA believes that such areas should work with the relevant EPA Regional Office to determine an appropriate course of action. If there are additional control measures that applied during 1999, but did not apply during the period of the violation, it may not be necessary to implement further contingency measures at this time.

The EPA allowed States to remove contingency measures from approved SIPs where they were linked to the 1-hour standard or air quality ozone concentrations and EPA had taken action to determine that the 1-hour standard no longer applied. *See* ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS,'' from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, December 29, 1997. The EPA believed that such revisions would be consistent with section 110(l) of the CAA since EPA was determining that the 1-hour standard no longer applied and, therefore, removal of the contingency measures would not interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the CAA. *Id.*

Because EPA believes it is now appropriate and necessary to reinstate the 1-hour standard, EPA believes it is no longer appropriate for States not to have those contingency measures in the approved SIP. States will need to move forward to put contingency measures back into the SIP. The EPA believes that States should have some discretion in selecting these contingency measures considering what measures would be appropriate, and adopting such measures, as necessary. Thus, at this time, EPA is not moving forward to use section 110(k)(6) to retract its earlier approval of SIP revisions removing contingency measures. Since EPA is not now proposing to move forward under section 110(k)(6), EPA is not addressing whether that provision provides the legal authority to take the action suggested by the commenters.

F. Areas Designated Nonattainment With No Violations Since Revocation

For areas designated nonattainment with no violations since the standard was revoked in these areas, EPA proposed that the nonattainment designation would again apply, but recommended that the State submit a redesignation request that meets the requirements of section 107(d)(3)(E). In addition, EPA noted that its May 10, 1995, ''Clean Data Policy'' could provide relief from some subpart 2 measures for these areas as long as they continued to have clean data. However, other subpart 2 requirements would apply unless and until an area was redesignated to attainment. There are 45 areas which fall into this category. The following table (Table I) lists the areas in this category:

Table 1.—Areas Designated Nonattainment With No Violations Since Revocation

Includes 45 areas (96 counties) that are not violating the 1-hour standard based on 1996–98 data.

Serious Classification:
- Boston-Lawrence-Worcester (E. MA), MA–NH (12 counties)
- Portsmouth-Dover-Rochester, NH (1 county)
- Providence (All RI), RI (5 counties)

Moderate Classification:
- Atlantic City, NJ (2 counties)
- Knox & Lincoln Cos., ME (2 counties)
- Lewiston-Auburn, ME (2 counties)
- Muskegon, MI (1 county)
- Portland, ME (3 counties)
- Poughkeepsie, NY (3 counties)

Marginal Classification:
- Albany-Schenectady-Troy, NY (6 counties)
- Allentown-Bethlehem-Easton, PA–NJ (4 counties)
- Altoona, PA (1 county)
- Buffalo-Niagara Falls, NY (2 counties)
- Door Co., WI
- Erie, PA (1 county)
- Essex Co., NY
- Harrisburg-Lebanon-Carlisle, PA (4 counties)
- Jefferson Co., NY
- Johnstown, PA (2 counties)
- Manchester, NH (1 county)
- Reno, NV (1 county)
- Scranton-Wilkes-Barre, PA (5 counties)
- Smyth Co., VA (White Top Mtn)
- York, PA (2 counties)
- Youngstown-Warren-Sharon, OH–PA

(3 counties)
Section 185A Areas (Section 185A areas, previously called transitional areas, had 3 complete years of clean data from 1987–89):
Chico, CA (1 county)
Denver-Boulder, CO (6 counties)
Flint, MI (1 county)
Yuba City, CA (2 counties)
Incomplete Data Classification (Incomplete data areas had no data or less than 3 complete years of data at time of classification):
Allegan Co., MI
Cheshire Co., NH
Crawford Co., PA
Franklin Co., PA
Greene Co, PA
Juniata Co., PA
Lawrence Co., PA
Northumberland Co., PA
Pike Co., PA
Saginaw-Bay City-Midland, MI (3 counties)
Salem, OR (2 counties)
Schuylkill Co., PA
Snyder Co., PA
Susquehanna Co., PA
Warren Co., PA
Wayne Co., PA

Comment: A number of commenters were opposed to reinstating prior designations and classifications, particularly in the case of areas that were designated nonattainment at the time of the revocation and that have remained clean. They want EPA to consider current monitoring data as the basis of an area's designation. These commenters claim that EPA's proposed approach creates inequities among the various types of areas where the standard would be reinstated. For example, they point to areas that will be designated attainment but that are violating the 1-hour standard. The commenters contend that it is inequitable that those areas will not be subject to subpart 2 control requirements, including new source review and conformity, but that certain nonattainment areas that have remained clean since revocation will be. One commenter did not seem to object to this approach, but recommended that EPA approve pending redesignation requests within 1 to 3 months of the final reinstatement.

Other commenters supported EPA's proposal to restore the designations and classifications that applied at the time of the revocation action. Several of these commenters claimed that EPA should not or could not consider violations that occurred while the standard was not applicable. Others recommended that EPA designate as nonattainment all areas that have current violations of the 1-hour standard.

Specifically, some commenters request that EPA now designate as attainment areas that were designated as nonattainment and that have never been approved for redesignation in accordance with the criteria in section 107(d)(3)(E). Thus, the commenters request EPA to rely on its revocation action as a justification for avoiding those requirements.

Response: As provided in section III.A, above, in today's action EPA is only reversing its earlier determination that the 1-hour standard no longer applies in these and other areas. Therefore, EPA is not considering current air quality data in establishing designations under this action as EPA would do when establishing initial designations for areas under section 107(d)(1) or redesignating areas under section 107(d)(3). In promulgating 40 CFR 50.9(b), EPA determined that the designations and classifications were linked to the applicability of the 1-hour standard. On that basis, in applying section 50.9(b), EPA removed not just the applicability of the 1-hour standard, but also the associated designation and classification for the 1-hour standard. Because EPA is rescinding its prior findings concerning the applicability of the 1-hour standard, the designations and classifications that accompanied that standard at the time of revocation come back into place with the standard.

The EPA disagrees with the commenters as a matter of law and policy. It is clear from the CAA, as amended in 1990, that Congress intended areas to meet specific criteria for redesignation with respect to an existing, applicable NAAQS. As discussed above in section III.A & B, EPA believes it was appropriate to transition from the 1-hour ozone standard to the 8-hour ozone NAAQS by requiring only that areas attain the 1-hour standard—one of the five criteria [21] for redesignation. However, EPA believes it would circumvent Congressional intent to reinstate the 1-hour standard because of the uncertainty surrounding the 8-hour standard and permit areas effectively to be redesignated from nonattainment to attainment without meeting the other four redesignation criteria. The EPA does not believe that it can rely on its rule determining the 1-hour standard no longer applies, the basis for which has been undermined by the ATA decision, as support for sidestepping the redesignation criteria.

Moreover, because EPA cannot be sure how long it will take to resolve the issues surrounding the 8-hour standard, EPA believes that it is important to ensure that areas will maintain the 1-hour standard. The statutory redesignation criteria are designed to accomplish that goal. Thus, EPA believes it is essential that they be met.

However, EPA believes that it is appropriate to provide additional time to nonattainment areas with clean air quality data since revocation in order to complete the redesignation process. Therefore, EPA is taking final action today to delay the applicability date of the final rule for up to 180 days for areas that were designated nonattainment at the time of revocation and continue to have clean data, in order to allow States to submit redesignation requests and EPA time to act on them prior to the applicability date. These areas are identified in Table 1. In the proposed action to reinstate the standard, EPA recommended that areas begin to develop redesignation requests (or revise, as necessary, any existing requests) so that EPA could move forward quickly to approve the requests upon reinstatement. The EPA understands that some States are now ready, or close to being ready, to submit these requests to EPA. If requests are submitted within the next 2 months, EPA believes it can complete action on them before this rule becomes applicable. The EPA will work with States to ensure that review of redesignation requests occurs expeditiously. In addition, if States are able to submit redesignation requests and EPA is able to process such requests to the point of final action prior to 180 days from publication, the final action approving the redesignation may provide that the applicability date of the reinstatement will be the same date as the effective date of the redesignation approval, so that the redesignations will occur simultaneously with the reinstatement.

Once EPA approves a redesignation request, an area would be subject to the requirements of the approved maintenance plans. Redesignation to attainment does not relieve an area of its conformity obligations.

With respect to all of the areas previously designated nonattainment which currently have clean air quality data, as listed in Table 1, EPA concluded at the time of revocation that these areas had clean air quality data. These findings remain applicable unless

[21] Section 107(d)(3)(E) provides that EPA may not redesignate an area from nonattainment to attainment unless EPA: (1) determines that the area has attained the relevant NAAQS; (2) has fully approved the area's SIP; (3) determines that the improvement in air quality is due to permanent and enforceable reductions in emissions; (4) has fully approved a maintenance plan for the area; and (5) has determined that the State has met all of the applicable SIP planning requirements.

more recent air quality data indicates that a violation has occurred. The EPA intends to complete rulemaking prior to the applicability date of this rule to determine the eligibility of these areas to use EPA's May 10, 1995 clean data policy. (Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard, John S. Seitz).

The EPA acknowledges that reinstating the designations as they were prior to revocation arguably may produce some inequities among areas; however, these potential inequities are inherent in the redesignation process set forth in section 107. As provided in section III.D, above, Congress provided EPA with discretion in determining whether to redesignate areas from attainment to nonattainment and specified factors for EPA to consider. In comparison, Congress prohibited EPA from redesignating an area from nonattainment to attainment unless EPA determined that the area meets five specific criteria. In addition, any redesignation must occur through notice-and-comment rulemaking. Thus, at any point in time, an area can be attaining the standard, yet still be designated nonattainment, or designated attainment and be violating the standard, including the period while rulemaking to effect a redesignation is proceeding.[22]

Areas where EPA is today reinstating the applicability of the 1-hour standard will be placed back into the same position they were in prior to revocation. The EPA does not believe that this creates any additional inequities for these areas. It is true that EPA had previously relieved areas of the obligation to develop a maintenance plan for the 1-hour standard since they were to begin implementing the 8-hour standard. However, since it is now uncertain when areas will be required to implement the 8-hour standard, EPA does not believe it is inequitable to require these areas, as any other area, to develop maintenance plans prior to redesignating them to attainment.

Comment: A few commenters made requests that specific types of areas not be designated nonattainment. One commenter suggested that EPA should designate as attainment areas that were previously designated marginal or rural transport areas and that are clean without requiring redesignation. A few commenters suggested that EPA not penalize areas with violations where the cause of the violations is clearly one of transport and dislike the ''unfair'' label of nonattainment.

Response: For the reasons provided above, EPA does not see a legal avenue for changing the designation of marginal or rural nonattainment areas or areas affected by transport based solely on the reinstatement of the standard. Nor do the commenters identify a legal mechanism for treating these areas differently from other nonattainment areas with clean data.[23] Some commenters set forth conflicting arguments, arguing that EPA should generally establish the designations that were in place at the time of the revocation while simultaneously claiming that certain types of areas should be designated based on current air quality. The EPA does not see how it can reconcile these conflicting positions. As provided above, EPA believes the only proper interpretation of this reinstatement action is that prior actions are reversed such that prior designations are put back into place. The EPA will consider current air quality data in determining whether to redesignate areas under section 107(d)(3).

In addition, EPA already has provided relief to areas subject to transport in a number of ways. Such areas may continue to take advantage of appropriate EPA policy relating to areas affected by transport.[24] In addition, EPA has issued final rules requiring States or sources to address transported NO_X and ozone in accordance with section 110(a)(2)(D) of the CAA. Final NO_X SIP Call Rule (63 FR 57356, October 27, 1998); Final Rule on Section 126 Petitions (64 FR 28250, May 25, 1999). Areas affected by transport will benefit from these rules.

Comment: Some commenters were concerned about redesignation requests and maintenance plans submitted prior to the time that EPA determined that the 1-hour standard no longer applied. These commenters thought that it would be unfair for EPA to require the areas to update the maintenance plan to provide maintenance for 10 years from the time of EPA's approval.

Response: The EPA appreciates the concerns of those few areas that may have had pending redesignation requests that demonstrate continued maintenance for some period shorter than 10 years from the time of EPA's final action, due to the passage of time. In such areas, EPA will work with those States and respective transportation agencies to develop technically sound future budgets. Such future emissions projections will consider growth for existing and future sources, forecasting for vehicle miles traveled, other federally mandated programs, particularly the more recent mobile fuels rules and other applicable measures; the resulting budgets will undergo normal public process review. The EPA will work with the affected areas on an individual basis to determine the extent to which additional maintenance demonstrations may be needed to support redesignation, and will take appropriate final action on maintenance demonstrations in connection with future action on pending redesignation requests.

G. Areas Designated Nonattainment With Violations Since Revocation

For areas designated nonattainment with violations since the standard was revoked in those areas, EPA proposed that the nonattainment designation would again apply and that the area would be subject to the subpart 2 requirements once the reinstatement became effective. The EPA proposed that these areas have a reasonable time to meet the applicable planning requirements and that EPA would work with each area to establish a submittal schedule. This only applies to one area, Sussex Co., DE., based on 1996–98 data.

Comment: Most commenters did not raise separate issues with respect to this specific group of areas. A few commenters specifically noted that they supported reinstating the nonattainment designation for these areas. Some commenters requested EPA to be clear about what the implications are for reinstatement. In particular, they were concerned about what planning and control requirements might apply and what would be the timing.

Response: The planning and control requirements that will apply for this area are the applicable planning and control requirements in subpart 2 of the CAA. The EPA will work with Delaware to determine appropriate SIP submittal

[22] One court, in an unpublished opinion, upheld EPA's interpretation of the redesignation provisions of the CAA that an area must attain the standard and remain in attainment during the time that a redesignation request is pending in order to qualify for redesignation. *Commonwealth of Kentucky, et al.* v. *US EPA*, No. 96–4274 (6th Cir. Sept. 2, 1998).

[23] One commenter suggests that we could do so as we did in revoking the standard. However, that was not a case of simply telling areas that they did not need to submit maintenance plans notwithstanding their nonattainment designation. It was a case of telling areas that they were no longer subject to any obligations with respect to the 1-hour standard based on expected implementation of the 8-hour standard, which would no longer be the case for marginal or rural nonattainment areas or areas affected by transport where the 1-hour standard is reinstated.

[24] *E.g.,*''Extension of Attainment Dates for Downwind Transport Areas,'' from Richard Wilson, Acting Assistant Administrator for Air and Radiation, dated July 16, 1998, published at 64 FR 14441, March 25, 1999.

deadlines for any programs that have not yet been submitted.

H. Effective Date and Applicability Dates of Reinstatement

The EPA proposed to delay the effective date [25] of any final reinstatement notice by 90 days in order to provide areas with a short period of time in which to prepare for the applicability of conformity and new source requirements which will be triggered by the reinstatement of the 1-hour standard and the designations for that standard. In the final rule, EPA has retained the 90-day effective date. However, for areas that were designated as nonattainment at the time EPA revoked the 1-hour standard and that have continued to have clean air quality since revocation, EPA is establishing an applicability date for the reinstatement of up to 180 days after publication of the final rule. These areas are listed in Table 1. During this period, EPA will review any pending redesignation requests or requests that may be submitted shortly after this final action is published. If EPA is able to complete final rulemaking action to redesignate an area to attainment during that 180-day period, EPA will provide in the final redesignation rule that the area will be designated attainment as of the applicability date of this rule, so that by the time reinstatement is applicable for any such area, the area will receive an attainment designation. In addition, if States are able to submit redesignation requests and EPA is able to process such requests to the point of final action prior to 180 days from publication, the final action approving the redesignation may provide that the applicability date of the reinstatement will be the same date as the effective date of the redesignation approval, so that the redesignations will occur simultaneously with the reinstatement. As mentioned before, the 45 areas listed in Table 1 may elect to submit redesignation requests.

Comment: Some commenters disagreed with the proposed 90-day delay in effectiveness, claiming it would be too short a time frame to complete conformity determinations on transportation improvement plans (TIPs) or for redesignation to occur. One commenter suggested a 180-day delay in the effective date. Other commenters believed that the final action reinstating the standard and the associated designation should be effective immediately. Finally, some commenters supported EPA's proposal to make the reinstatement and the associated designations effective 90 days after publication.

Response: With respect to the effective date of the rule, EPA has determined, based upon the comments submitted, that a 90-day delayed effective date is an appropriate time period for most areas. The time from the October 25th proposal to the end of the 90-day period is approximately 10 months. The EPA believes this period is sufficient for States to complete air quality analyses for conformity determinations on transportation plans prior to the effective date of the final rule. Thus, areas should not experience any delays in transportation projects. At the same time, reinstatement of the standard with the associated public health and welfare protections will not be significantly delayed. The EPA does not anticipate that areas will attempt to complete transportation activities inconsistent with reinstatement of the 1-hour standard prior to the effective date, but rather that they will use the delay to ensure they are ready to meet the applicable requirements when the reinstatement becomes effective. Thus, EPA concludes that a 90-day delayed effective date is a reasonable accommodation between the competing interests of public health protection and transportation planning for most areas.

The EPA agrees with commenters to the extent it concludes that up to a 180-day delay in the applicability of this rule is appropriate for areas that were designated nonattainment prior to revocation but that currently have clean air quality data sufficient to support a redesignation to attainment. Since these areas have continued to have clean air since revocation, EPA believes it is appropriate to provide up to an additional 90-day delay in the applicability of the rule to allow these areas time to quickly complete and submit redesignation requests and for EPA to act on submitted requests. Where EPA approves such requests on or before the applicability date of this rule, the area would be designated attainment at the time the reinstatement of the 1-hour standard becomes applicable. The EPA notes again that if EPA is taking final action to approve a redesignation prior to 180 days from publication of this rule, the final action approving the redesignation may provide that the applicability date of the reinstatement will be the same date as the effective date of the redesignation approval, so that the redesignations will occur simultaneously with the reinstatement. Where EPA does not approve a redesignation request or one is not submitted, the area will receive the nonattainment designation which applied to the area prior to revocation upon the applicability date of this rule.

The EPA notes that all of these areas will again be subject to conformity upon the applicability date of the reinstatement of the 1-hour standard and associated designations, since conformity applies to both nonattainment and maintenance areas. As indicated above, EPA anticipates that areas will use the delay to complete modeling efforts and the consultation process so that they can have a conforming plan and TIP in place by the applicability date.

I. Sanction and FIP Clocks

The EPA's proposed rule provided that any sanctions and FIP clocks that were running at the time of the revocation should restart at the point that they left off. In other words, if there were 6 months remaining in the 2-year period for promulgation of a FIP, those remaining 6 months would start to run for that area on the applicability date of this action. The EPA is retaining this approach in the final rule.

Comment: Some commenters stated that areas should not be subject to any penalties or sanctions. Another commenter requested that EPA impose sanctions immediately not only for those areas for which a clock was running but also for those areas which may not have submitted a required SIP but for which EPA never made a finding that started sanctions and FIP clocks. This commenter suggested that sanctions should be imposed no later than 90 days after the effective date of the reinstatement for all such areas. In contrast, a number of commenters supported EPA's approach. These commenters generally contended that treating the clocks as if they continued to run during the time when the standard did not apply would be considered enforcing the standard when it was not in effect. One commenter seemed to support starting the clock where it left off at the time of the revocation, but noted that sanction clocks with time remaining should not allow States to delay progress. The commenter states that areas violating the 1-hour standard or contributing to violations in other areas must move forward ''as expeditiously as practicable.''

Response: The EPA believes that the most equitable approach is to restart clocks for sanctions or FIPs where they left off at the time of the revocation. Because States and sources relied on EPA's final rule determining that the standard no longer applied, States were not affirmatively moving forward with

[25] See footnote 9, above.

1-hour SIPs.[26] Thus, EPA believes that it would be unfair to States and affected sources to treat those clocks as if they continued to run during the time that the 1-hour standard no longer applied.

Similarly, EPA does not believe that it has authority, nor would it be appropriate, to begin these clocks over again upon reinstatement or to treat these clocks as no longer in effect. The FIP and sanctions obligations under sections 110 and 179 of the CAA were previously triggered for a State's failure to make a complete SIP submission or an approvable submission as required under the CAA. By today's action, areas will once again be subject to the same requirements to make submissions. There is no basis for ignoring or discharging the State's obligation with respect to these submissions. Moreover, EPA agrees that sanctions clocks should not be treated by States as a ''grace period'' that allows deferral of compliance dates. Where a sanctions clock is in place, States should submit plans to stop the clock as expeditiously as practicable and should not delay submission until the last minute before sanctions are put into place.

Because EPA is taking action to put areas back in the place they were in prior to the revocation, the most appropriate course of action is to restart these clocks where they left off. Therefore, upon the applicability date of today's action, any sanctions or FIP clocks that were running based on a State's default for a required submission will restart at the point it was on the effective date of the revocation. States should work to submit SIPs as expeditiously as practicable. Any questions regarding the status of a sanction or FIP clock for a specific area should be directed to the appropriate EPA Regional Office. Finally EPA has no authority to impose sanctions where EPA has not made appropriate findings to trigger clocks under section 179.

J. Conformity

The EPA proposed that conformity would apply upon the effective date of the rule to all areas again designated nonattainment. The EPA noted that these areas would need to have a conforming transportation plan and program in place by the effective date of the rule in order to fund new transportation projects after that date. The EPA also noted that conformity has continued to apply to all attainment areas with maintenance plans even after revocation, and that conformity does not apply at all to attainment areas without maintenance plans. Upon the applicability date[27] of this final action, conformity will apply to all designated nonattainment and maintenance areas as proposed.

Several commenters expressed concerns about the conformity requirements that apply to nonattainment and maintenance areas and the timing of conformity determinations. The specific comments and responses follow.

Comment: The transportation conformity rule requires conformity to be determined at least every 3 years. Commenters requested that we not consider the 3-year clock to have been running in nonattainment areas where the 1-hour ozone standard was revoked and conformity did not apply.

Response: We agree that in ozone nonattainment areas where the ozone standard was revoked and conformity stopped applying, any of the 3-year or 18-month clocks (described in 40 CFR 93.104[28]) that were running at the time of the revocation were stayed on the effective date of the revocation. On the applicability date of this final rule, those clocks will pick up again at the point where they left off.

In practice, this means that if an ozone nonattainment area had a conforming TIP at the time of the revocation and did not amend the plan and TIP with respect to any non-exempt projects during the time conformity did not apply, the transportation plan and TIP would continue to be considered ''currently conforming'' even if more than 3 years have elapsed since the conformity determination.

The area would need to document that the transportation plan and TIP have not changed since the time of the last conformity determination in a manner that would have required a new conformity determination. The area should also clearly identify how much time remains on the 3-year clock and any 18-month clock that was triggered by 40 CFR 93.104.

We are not concerned that the temporary halt of the clocks in 40 CFR 93.104 will result in transportation plans and TIPs that are relying on very old conformity determinations. The Department of Transportation (DOT) requires transportation plans and TIPs to be regularly updated, and those planning clocks have been running regardless of the revocation. The plan and TIP updates require conformity determinations. Therefore, any plans and TIPs with conformity determinations from before the revocation will be updated soon under DOT's planning regulations.

For any plans and TIPs that were amended with respect to non-exempt projects while the ozone standard was revoked, a new conformity determination will be required by the time the reinstatement is applicable. This is because these plans and TIPs will generally not yet have been found to conform and would have to be found to conform by the applicability date of reinstatement to enable projects to proceed.

Comment: One commenter asked what process is required for areas that voluntarily complied with conformity requirements while the ozone standard was revoked.

Response: If an area amended its plan and TIP while the ozone standard was revoked, but the amendment(s) fully met the requirements of the conformity rule (including public participation), the area would simply need to document this and receive confirmation from the Federal agencies that the transportation plan and TIP are considered ''currently conforming.''

Comment: Some commenters were concerned that they do not have enough time to determine conformity before the reinstatement is applicable, and/or that it is burdensome to determine conformity of the current plan and TIP when they are updating the plan and TIP very soon (which will also require a conformity determination).

Response: We understand that this final rule changes the usual cycle for determining conformity. Counting from the time we proposed to reinstate the standard, areas will have had at least ten months to complete the conformity process prior to the applicability date of this rule. We believe this is a reasonable time frame, although we recognize that the timing for this conformity process may not be optimal for some areas.

We must balance the desire for additional time for transportation planning with the need to protect public health with the 1-hour ozone standard and statutory requirement for conformity determinations. In some areas, transportation investments were planned or approved during the

[26] One commenter suggests that EPA's actions revoking the 1-hour standard and related designations were not legally valid at the time they were taken. Thus, this commenter claims, that rule cannot support a further delay in sanctions or FIPs. The EPA disagrees. The EPA revoked the standard in full compliance with its regulation, 40 CFR 50.9(b), which was not challenged at the time it was promulgated.

[27] See footnote 9 and section H. above for explanation of terms ''effective date'' and ''applicability date.''

[28] The EPA's conformity regulations require States to redetermine conformity for all transportation plans and programs every 3 years. 40 CFR 93.104(b)(3) and (c)(3). The regulations also require a conformity determination within 18 months of various SIP submittal and approval actions. 40 CFR 93.104(e).

revocation without a demonstration that they will not interfere with attainment of the one-hour ozone standard. It is important to conduct such a demonstration expeditiously so that areas do not irreversibly commit to transportation projects that are inconsistent with healthy air.

Comment: One commenter stated that the proposed criteria for conformity are not consistent with the March 2, 1999 decision of the Court of Appeals in *EDF* v. *EPA,* 167 F.3d 641,650 (1999) on conformity. The commenter argues that the court required EPA to develop a test to ensure conformity consistent with CAA 176(c)(1) and that this must be done now for all areas where the standard is to be reinstated.

Response: Conformity determinations should comply with the CAA, as recently interpreted in the EPA and DOT guidance issued in response to the March 1999 court decision (EPA's May 14, 1999 guidance entitled, ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision'' and DOT's June 18, 1999 guidance entitled, ''Additional Supplemental Guidance for the Implementation of the Circuit Court Decision Affecting Transportation Conformity''). We believe that these guidance documents are consistent with the court's decision and that conformity determinations performed consistent with the guidance are legally sound. We will be formally proposing to amend the transportation conformity rule to incorporate this guidance, pursuant to CAA section 176(c)(4)(A).

The commenter appears to believe that the court decision required EPA to develop additional criteria to satisfy the obligations of section 176(c)(1) of the CAA, which require Federal agencies and Metropolitan Planning Organizations (MPOs) to determine that Federal actions will not interfere with timely attainment, in situations where they are determining conformity to budgets in submitted SIPs. However, EPA believes that the court in actuality merely remanded EPA's rules, stating that ''where EPA fails to determine the adequacy of motor vehicle emissions budgets in a SIP revision within 45 days of submission, * * * there is no reason to believe that transportation plans and programs conforming to the submitted budgets will [meet the statutory tests in section 176(c)(1)(B)].'' The EPA interprets this aspect of the decision to require it to revise its regulations to mandate that EPA make affirmative findings of adequacy on all submitted SIPs before they can be used for conformity purposes. The procedure for doing this is outlined in the guidance mentioned above. The EPA does not believe the court addressed any deficiency in EPA's regulations governing conformity determinations in situations where EPA has made a positive finding of adequacy. The EPA concludes that the court only remanded the aspect of EPA's regulations at 40 CFR 93.118(e)(1) which allows use of submitted SIPs which EPA has not yet found adequate, since it did not remand either EPA's regulations at 40 CFR 93.118(e)(4) establishing criteria for finding budgets adequate or 93.118(e)(6) requiring additional findings by Federal agencies and MPOs where conformity determinations are made to submitted SIPs. Therefore, EPA believes that conformity determinations consistent with these two provisions and our guidance on finding budgets adequate fully satisfy the requirements of the CAA and we intend to revise our regulations consistent with that guidance. Of course, commenters will have the opportunity to comment on those regulatory changes when they are proposed and to raise any issues associated with EPA's interpretation of the court opinion at that time. The EPA does not believe that such comments are directly relevant to this rulemaking and, therefore, is not making any changes to the conformity rules in connection with this final action.

Comment: One commenter argued that conformity to adequate SIP budgets in nonattainment areas, should continue even after any future revocations until new adequate budgets are submitted for the 8-hour standard.

Response: Section 176(c)(5) of the CAA clearly provides that conformity requirements only apply in nonattainment areas and areas that had been nonattainment and were subsequently redesignated to attainment and are subject to the requirement to develop a maintenance plan. Since nonattainment areas where EPA may in the future revoke the 1-hour standard once an 8-hour standard becomes fully enforceable will no longer be designated nonattainment or subject to the requirement to submit a maintenance plan, for the reasons explained above, EPA concludes that it would have no authority under section 176(c) to require conformity to previously submitted 1-hour budgets after any future revocations.

K. New Source Review

In the October 25th proposal, EPA solicited comment on what NSR requirements should apply in areas that had, subsequent to our findings that the 1-hour standard no longer applied, revoked their nonattainment NSR programs. Specifically, EPA asked whether 40 CFR part 51, Appendix S should be followed or the higher offset/major source thresholds in subpart 2 of the CAA should be followed in nonattainment areas where the SIP lacks the applicable nonattainment NSR provisions.

Comment: Several commenters wanted flexibility in applying NSR requirements. There was a mixed reaction for and against using 40 CFR appendix S. As to the question of whether States must issue permits consistent with the additional requirements of subpart 2, even in the absence of an approved NSR SIP, one commenter stated that it was not supportive of any EPA action that would cause enforcement of NSR on facilities that were or are under no legal obligation to comply with NSR requirements. Another commenter urged EPA to require sources to comply with subpart 2 notwithstanding the lack of an approved SIP, citing a 1992 EPA policy memorandum as support.

Response: The EPA solicited comment on how to address areas that were designated nonattainment prior to the findings that the 1-hour standard no longer applied and which, since revocation, had amended their SIPs to remove the applicable nonattainment NSR provisions. The EPA has determined that it is unnecessary to resolve this question in this rulemaking, as we have determined that no area has amended its SIP since the nonattainment designations were removed. Thus, the applicable SIPs in each area will specify the nonattainment NSR responsibilities of sources in the area, without any action by EPA.

Comment: Sources that have applied for PSD permits during the period that the 1-hour ozone standard did not apply should not have to seek part D NSR permits. Allowing sources with complete applications to avoid more stringent requirements is consistent with EPA policy. Such an approach is also consistent with how EPA acted following the adoption of PM_{10} as the indicator for particulate matter in 1987. At that time, EPA allowed sources with complete PSD permit applications that did not account for the sources' PM_{10} emissions to be grandfathered.

Response: Whether or not sources must apply for part D nonattainment NSR permits upon reinstatement of the 1-hour standard will be determined by the applicable SIP. The EPA expects that most, if not all, SIPs already specify that sources in designated nonattainment areas must obtain part D permits. Accordingly, some sources may have to revise their permit applications. Even if EPA were to agree that it would

be appropriate to allow such sources to obtain PSD permits rather than nonattainment NSR permits, EPA cannot override by policy the legal requirements of a more stringent applicable SIP. Regarding the PM_{10} transition policy to which the commenter refers, that policy is inapplicable in the present situation because it did not deal with the kind of situation at issue currently—where areas will be switching from one designation status (no designation) to nonattainment. The EPA had concluded in that rulemaking that part D, including part D NSR, did not apply at all to the revised particulate matter NAAQS, so there was not a question about which NSR program would apply. See 52 FR 24672, 24678 (July 1, 1987).

L. Miscellaneous Comments

Comment: One commenter noted that EPA should notify the public of the terms of a stipulation agreement reached between EPA and the Environmental Defense Fund (EDF) wherein EPA agreed to accept comment on certain items in the reinstatement notice.

Response: In its notice reopening the comment period on Dec. 8, 1999, EPA explicitly provided that it would accept comment on the list of issues recited in the stipulation filed in *EDF* v. *EPA,* (D.C. Cir., No. 98–1363). (64 FR 68659, December 8, 1999).

Comment: Several commenters supported applying the reinstatement retroactively, such that areas would be treated as if the standard and the associated designations have always applied. Some were not supportive of retroactively applying the 1-hour standard during the time it was revoked. With respect to conformity determinations, one commenter believed that we shouldn't allow ''grandfathering'' of projects if prior conformity determinations would have lapsed during the time the standard was not applicable; they believe that in cases where it is not possible to reverse actions, then they must be subject to some mitigation procedure to address actions that allowed for emission increases during that time.

Response: The EPA concludes that it is not appropriate to apply the reinstatement of the 1-hour standard retroactively. The EPA believes that it had full authority to revoke the 1-hour standard initially, and that its actions were legal and proper at the time they were taken. Although EPA now concludes that it should rescind those actions due to changed circumstances, it would be unfair to areas that had relied on the initial revocations (and to sources located in those areas) to apply the rescissions retroactively. Many areas took actions during the period of time that the 1-hour standard was not applicable that properly relied on the inapplicability of that standard. Rules altering prior actions are generally applied only prospectively and are applied retroactively only in unusual cases, for instance where an agency did not have the authority to take a prior action initially. Courts generally view retroactive application of administrative rules with disfavor unless such application is specifically sanctioned by statute. *Bowen* v. *Georgetown University Hospital,* 488 U.S. 204 (1988). The CAA does not specifically provide for retroactive application of regulations under title I. Therefore, although EPA might have authority to apply the reinstatement retroactively if a court determined that EPA's action in revoking the standard was illegal, EPA does not believe it is appropriate to do so here where EPA believes it was fully authorized to revoke the standard at the time it took such action.

The EPA also concludes for similar reasons that it would not be appropriate for conformity purposes to treat conformity determinations as having lapsed during the time that the 1-hour standard was not applicable to an area. Because the 1-hour standard no longer applied during that period, areas were not on notice that conformity determinations were to lapse. It would be equally unfair to areas to achieve a similar result by denying grandfathering status under the conformity rules to any project approved during a time period when conformity status would have lapsed if the standard had been applicable. The EPA concludes that areas should be allowed to continue to rely on the inapplicability of the 1-hour standard during the period between revocation and reinstatement because EPA had the authority to revoke the standard and properly revoked it initially.[29]

For these same reasons, EPA concludes that where highway projects or new sources have already been constructed, areas should not be required to immediately implement mitigation measures to remedy any resulting emissions increases. Areas will effectively have to provide for mitigation in future transportation and air quality planning once the 1-hour standard is reinstated. All future air quality planning for attainment and reasonable further progress as well as conformity determinations will have to account for emissions from such activities. However, EPA believes that it would be inequitable to require areas to immediately institute specific mitigation measures to account for any emissions increases that may have occurred during the time that the standard was not applicable to an area.

Comment: Several commenters took the opportunity to comment on the 8-hour ozone standard. Many requested that designations for the 8-hour standard not be made until legal issues are resolved. Many asked for guidance to States on meeting the 8-hour standard in the interim. Several called upon the Agency to revoke the 8-hour standard.

Response: The numerous comments concerning the 8-hour standard, including those relating to designations under the 8-hour standard, guidance on implementation of the 8-hour standard, and requests for revocation of the 8-hour standard, are not relevant to this rulemaking on reinstatement of the 1-hour standard. The EPA will address issues relating to the 8-hour standard in separate rulemaking actions or guidance documents.

Comment: One commenter suggested that we explore the Flexible Attainment Region (FAR) approach to provide flexibility to States in determining measures to prevent air quality deterioration and to improve air quality. The commenter suggests that EPA give these ''voluntary programs'' time to work before triggering nonattainment designations. The same commenter also requests EPA to extend to ozone areas the flexibility provided in EPA's draft guidance for PM–10 nonattaiment areas with respect to limited maintenance plans.

Response: The EPA has used the FAR approach in the past with respect to areas designated attainment but that are violating the ozone standard. As provided above, EPA has some discretion in deciding whether to redesignate such areas as nonattainment. In exercising that discretion, EPA may consider ''planning and control'' activities. Thus, in the past, EPA has not moved forward to redesignate to nonattainment attainment areas that were voluntarily adopting and implementing measures to address violations. The EPA plans to continue this approach for such areas as explained in sections III.D and E, above.

[29] One commenter notes that some areas should have been on notice that revocations were questionable since one action promulgating revocations was not published in the **Federal Register** until after May 14, 1999, the date of the adverse court decision in *ATA* (64 FR 30911, June 9, 1999). However, that final action of the Administrator was taken (final rulemaking notice signed by the Administrator) on May 12, 1999, prior to the court decision; only publication occurred after the decision. The EPA did not take any further actions revoking the 1-hour standard in any areas after the date of the *ATA* decision.

However, as also explained above, EPA does not believe it has the authority to reinstate the standard and not designate as nonattainment those areas designated as nonattainment at the time of the revocation action. These areas would be subject to the specific planning requirements that Congress provided under the CAA until they qualify for redesignation. The EPA cannot ignore the statutory mandate in favor of more flexible means of achieving attainment that could be allowed under the FAR approach. Therefore, designated nonattainment areas cannot use a FAR because the statutory requirements apply.

With respect to the comment regarding EPA's draft limited maintenance plan guidance for PM–10 areas seeking redesignation from nonattainment to attainment, EPA notes that it has an existing limited maintenance plan policy for ozone (''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas,'' November 16, 1994, Sally Shaver) This policy provides some flexibility, *e.g.,* no requirement to project emissions out into the future, no need for maintenance demonstration since met by meeting the NAAQS, etc. The commenter appears not to recognize that such a policy exists and does not further explain what flexibilities in the draft PM–10 policy they would like extended to ozone areas.

IV. What Administrative Requirements Are Considered in Today's Final Rule?

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this final rule is a ''significant regulatory action'' under the terms of Executive Order 12866; therefore, it was submitted to OMB for their review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The EPA is certifying that this final rule will not have a significant impact on a substantial number of small entities because the determination that the 1-hour standard again applies does not itself directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rule merely establishes that the 1-hour standard again applies in certain areas. For the most part, any requirements applicable to small entities that may indirectly apply as a result of this action would be imposed independently by the State under its SIP, not by EPA through this action. Moreover, to the extent this rule would automatically trigger the applicability of certain SIP requirements to small entities (*e.g.,* NSR), this rule cannot itself be tailored to address small entities that would be subject to those requirements.

One requirement that may apply immediately upon this action to all designated nonattainment areas is the requirement under CAA section 176(c) and associated regulations to demonstrate conformity of Federal actions to SIPs. However, those rules only apply directly to Federal agencies and MPOs, which by definition are designated only for metropolitan areas with a population of at least 50,000 and thus do not meet the definition of small entities under the RFA. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it mush have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either State, local, or tribal governments in the aggregate or to the private sector. This rule would reinstate the applicability of the 1-hour ozone standard and alter the designation status of areas. The consequences of this action may result in some additional costs within the affected areas, but these costs would not exceed $100 million per year in the aggregate.[30] In view of recent concerns about increased gas prices in

[30] *See* Docket A–99–22, III–B–04, ''Preliminary Assessment of the Incremental Burden Associated with Reinstatement of the 1-Hour Ozone Standard for UMRA, dated October 14, 1999.

certain areas, we specifically note that this action will not impose any requirements on gasoline and will not affect current gas prices.

One mandate that may apply as a consequence of this action to all designated nonattainment areas is the requirement under CAA section 176(c) and associated regulations to demonstrate conformity of Federal actions to SIPs. These rules apply to Federal agencies and MPOs making conformity determinations. The EPA concludes that such conformity determinations will not cost $100 million or more in the aggregate annually.[31]

In addition, some areas with recent air quality violations will have to take the additional steps specified in their maintenance plans to limit emissions of air pollutants. These measures could, for example, include revising the threshold for NSR, establishing reasonable available control technology (RACT) level control for additional sources, and establishing or enhancing inspection and maintenance (I/M) programs within the area. These measures vary substantially in terms of the expected emissions reductions and their potential cost. Because the affected jurisdictions have some flexibility to choose among these measures, it is difficult to estimate the overall cost of these additional controls. The EPA believes that the affected areas are already carrying out many of the other obligations associated with this action. For example, most areas that would have a nonattainment designation reinstated upon reinstatement of the 1-hour standard already have NSR requirements under their existing SIP programs. In addition, many of these areas are located in the Northeast Ozone Transport Region and are already carrying out many of the requirements associated with the reinstatement of the 1-hour standard. Therefore, EPA believes that any new controls imposed as a result of this action will not cost in the aggregate $100 million or more annually. Thus, this Federal action will not impose mandates that will require expenditures of $100 million or more in the aggregate in any one year.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those major regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not meet either of the above criteria. It is not economically significant as defined under Executive Order 12866, and it implements a previously promulgated health or safety-based Federal standard and does not itself involve decisions that affect environmental health or safety risks.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

As indicated in the proposal, EPA does not believe that this final rule has federalism implications within the meaning of the Executive Order. EPA has reached this conclusion for several reasons. As discussed above in connection with UMRA, this action will not impose substantial direct compliance costs on the States nor will it alter the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. As noted previously, this rule simply reinstates the applicability of the 1-hour ozone standard and the associated air quality designations for various areas that had applied prior to revocation. These actions do not preempt any State authority or otherwise affect State flexibility to comply with the Clean Air Act. Although reinstatement will alter the number of areas within various states that are designated under the 1-hour standard, it will not alter the relationships that currently exist between the States and the federal government with respect to areas designated under the 1-hour standard. Thus, EPA concludes that the requirements of section 6 of the Executive Order do not apply to this rule.

In the spirit of the Executive Order however, the Agency has consulted extensively with representatives of State and local governments, including elected officials. As EPA was developing the proposal and again when EPA issued the proposal, we phoned elected officials or their staff for many of the areas that could be affected by the rule to notify them that EPA was considering reinstating the 1-hour ozone standard and to solicit their advice and concerns. The EPA also notified national organizations of state and local government officials and made EPA staff available to discuss the proposed action with the organization staff and their members. These organizations included the U.S. Conference of Mayors (USCM), the National Conference of Black Mayors, the National Governors Association, the National Council of State Legislators, the National Association of Counties, ECOS, STAPPA/ALAPCO, the National

[31] See footnote 30, above.

Association of Local Government Environmental Professionals, and the Ozone Transport Commission. For example, EPA's Assistant Administrator for Air and Radiation held a conference call with the USCM Energy and Environment Committee members when the proposal was announced. In addition, EPA sent letters to the Governors and their environmental commissioners to ensure that they were aware of the proposal and could comment on it. It was in response to concerns raised by these contacts that EPA proposed to delay the effective date of the reinstatement for 90 days so that areas would have adequate time to comply with any requirements triggered by reinstatement. In addition, based on comments received from States after publication of the proposal, EPA decided to provide a 180-day delayed applicability date for areas that were designated nonattainment but currently have clean air data. EPA also notes that, while it received no adverse comments regarding the statements in the proposal concerning the lack of federalism implications of this rule, it received numerous comments on the rule from state and local governments. EPA has responded fully to all comments raised by the various State and local governments, as explained above in the sections of this notice describing the comments and EPA's response to them.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. This final action does not involve or impose any requirements that directly affect Indian tribes. Under EPA's tribal authority rule, tribes are not required to implement CAA programs but, instead, have the opportunity to do so. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. Paperwork Reduction Act

This final action does not contain any information collection requirements which require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

I. Executive Order 12898: Environmental Justice

Under Executive Order 12898, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's final action to reinstate the applicability of the 1-hour standard in certain areas does not have a disproportionate adverse affect on minorities and low-income populations.

J. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this final action. Today's final action does not require the public to perform activities conducive to the use of VCS.

K. Rule Effective Date and Applicability Dates

The EPA finds that there is good cause for this final action to become effective [32] and applicable either 90 or 180 days after publication, depending upon type of area, since this would afford areas time to get programs, such as conformity SIPs or redesignation requests, in place. The EPA believes these are reasonable periods of time to accommodate the competing interests of efficient air quality and transportation planning and prompt public health protection. The EPA has general administrative authority under section 301(a) of the CAA and 5 U.S.C. 553(d) to establish the effective date and applicability dates of a rule provided any delay in effective date or applicability dates is reasonable. *ASG Industries* v. *Consumer Product Safety Commission,* 593 F.2d 1323, 1335 (D.C. Cir. 1979). A 90- or 180-day delay in effective or applicability date for a rule where areas will have to develop various SIP emission control programs by the effective or applicability date of the rule is reasonable. *See Small Refiner Lead Phase-Down Task Force* v. *EPA,* 705 F.2d 506 (D.C. Cir. 1983) (EPA's decision to grant an 8-month period between date of promulgation and effective date was reasonable where regulated entities needed time to implement controls). The longer time period for areas that are not experiencing violations is reasonable because no violations are occurring in these areas. Moreover, EPA will need additional time to take final action to redesignate areas as attainment after States submit their plans to EPA.

[32] See footnote 9, above.

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 18, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 5, 2000.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, Parts 50 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 50—[AMENDED]

1. The authority citation for part 50 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Section 50.9 is amended by revising paragraph (b) to read as follows:

§ 50.9 National 1-hour primary and secondary ambient air quality standards for ozone.

* * * * *

(b) The 1-hour standards set forth in this section will remain applicable to all areas notwithstanding the promulgation of 8-hour ozone standards under § 50.10. In addition, after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standards set forth in this section will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard. Area designations and classifications with respect to the 1-hour standards are codified in 40 CFR part 81.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In § 81.301, the table entitled ''Alabama-Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.301 Alabama.

* * * * *

ALABAMA-OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Birmingham Area:				
Jefferson County	11/15/90	Nonattainment	11/15/90	Marginal.
Shelby County	11/15/90	Nonattainment	11/15/90	Marginal.
Rest of State	.....	Unclassifiable/Attainment		
Autauga County				
Baldwin County				
Barbour County				
Bibb County				
Blount County				
Bullock County				
Butler County				
Calhoun County				
Chambers County				
Cherokee County				
Chilton County				
Choctaw County				
Clarke County				
Clay County				
Cleburne County				
Coffee County				
Colbert County				
Conecuh County				
Coosa County				
Covington County				
Crenshaw County				
Cullman County				
Dale County				
Dallas County				
De Kalb County				
Elmore County				
Escambia County				
Etowah County				
Fayette County				
Franklin County				
Geneva County				
Greene County				
Hale County				
Henry County				
Houston County				
Jackson County				
Lamar County				
Lauderdale County				
Lawrence County				
Lee County				
Limestone County				
Lowndes County				
Macon County				
Madison County				
Marengo County				
Marion County				
Marshall County				
Mobile County				

ALABAMA-OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Monroe County				
Montgomery County				
Morgan County				
Perry County				
Pickens County				
Pike County				
Randolph County				
Russell County				
St. Clair County				
Sumter County				
Talladega County				
Tallapoosa County				
Tuscaloosa County				
Walker County				
Washington County				
Wilcox County				
Winston County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

3. In § 81.302, the table entitled ''Alaska—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.302 Alaska.

* * * * *

ALASKA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 08 Cook Inlet Intrastate		Unclassifiable/Attainment		
Anchorage Election District				
Kenai Penninsula Election District				
Matanuska-Susitna Election District				
Seward Election District				
AQCR 09 Northern Alaska Intrastate		Unclassifiable/Attainment		
Barrow Election District				
Denali Borough				
Fairbanks Election District				
Kobuk Election District				
Nome Election District				
North Slope Election District				
Northwest Arctic Borough				
Southeast Fairbanks Election District				
Upper Yukon Election District				
Yukon-Koyukuk Election District				
AQCR 10 South Central Alaska Intrastate		Unclassifiable/Attainment		
Aleutian Islands Election District				
Aleutians East Borough				
Aleutians West Census				
Bethel Election District				
Bristol Bay Borough Election District				
Bristol Bay Election District				
Cordova-McCarthy Election District				
Dillingham Election District				
Kodiak Island Election District				
Kuskokwim Election District				
Lake and Peninsula Borough				
Valdez-Cordova Election District				
Wade Hampton Election District				
AQCR 11 Southeastern Alaska Intrastate		Unclassifiable/Attainment		
Angoon Election District				
Haines Election District				
Juneau Election District				
Ketchikan Election District				
Outer Kethcikan Election District				
Prince Of Wales Election District				
Sitka Election District				
Skagway-Yakutat Election District				

ALASKA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Wrangell-Petersburg Election District				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

4. In § 81.303, the table entitled ''Arizona—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Phoenix Area:				
Maricopa County (part)	11/15/90	Nonattainment	2/13/98	Serious.
The Urban Planning Area of the Maricopa Association of Governments is bounded as follows:				
1. Commencing at a point which is at the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				
2. Thence, proceed northerly along the eastern line of Range 7 East which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11–109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and showed on the U.S. Forest Service 1969 Planimetric Maps;				
3. Thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Usery Mountain Semi-Regional Park;				
4. Thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Usery Mountain Semi-Regional Park;				
5. Thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. Thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
7. Thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				
8. Thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. Thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				
10. Thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park;				
11. Thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. Thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				
13. Thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest;				
14. Thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. Thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11–109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. Thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statute Section 11-109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
17. Thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. Thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road;				
19. Thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				
20. Thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. Thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. Thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. Thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. Thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. Thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statues Section 11–109 and 11–113, which is the eastern line of Range 1 East;				
26. Thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. Thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				

ARIZONA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
28. Thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line Range 7 East				
Tucson Area:				
Pima County (part)				
Tuscon area	.....	Unclassifiable/Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Apache County				
Cochise County				
Coconino County				
Gila County				
Graham County				
Greenlee County				
La Paz County				
Maricopa County (part) area outside of Phoenix				
Mohave County				
Navajo County				
Pima County (part) Remainder of county				
Pinal County				
Santa Cruz County				
Yavapai County				
Yuma County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

5. In § 81.304, the table entitled ''Arkansas—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.304 Arkansas.

* * * * *

ARKANSAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 016 Central Arkansas Intrastate (part) Pulaski County.	.....	Unclassifiable/Attainment		
AQCR 016 Central Arkansas Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Chicot County				
Clark County				
Cleveland County				
Conway County				
Dallas County				
Desha County				
Drew County				
Faulkner County				
Garland County				
Grant County				
Hot Spring County				
Jefferson County				
Lincoln County				
Lonoke County				
Perry County				
Pope County				
Saline County				
Yell County				
AQCR 017 Metropolitan Fort Smith Interstate	.....	Unclassifiable/Attainment		
Benton County				
Crawford County				
Sebastian County				
Washington County				
AQCR 018 Metropolitan Memphis Interstate	.....	Unclassifiable/Attainment		
Crittenden County				
AQCR 019 Monroe-El Dorado Interstate	.....	Unclassifiable/Attainment		
Ashley County				
Bradley County				
Calhoun County				

ARKANSAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Nevada County				
Ouachita County				
Union County				
AQCR 020 Northeast Arkansas Intrastate	.....	Unclassifiable/Attainment		
Arkansas County				
Clay County				
Craighead County				
Cross County				
Greene County				
Independence County				
Jackson County				
Lawrence County				
Lee County				
Mississippi County				
Monroe County				
Phillips County				
Poinsett County				
Prairie County				
Randolph County				
Sharp County				
St. Francis County				
White County				
Woodruff County				
AQCR 021 Northwest Arkansas Intrastate	.....	Unclassifiable/Attainment		
Baxter County				
Boone County				
Carroll County				
Cleburne County				
Franklin County				
Fulton County				
Izard County				
Johnson County				
Logan County				
Madison County				
Marion County				
Montgomery County				
Newton County				
Pike County				
Polk County				
Scott County				
Searcy County				
Stone County				
Van Buren County				
AQCR 022 Shreveport-Texarkana-Tyler Interstate	.....	Unclassifiable/Attainment		
Columbia County				
Hempstead County				
Howard County				
Lafayette County				
Little River County				
Miller County				
Sevier County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

6. In § 81.305, the table entitled ''California—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chico Area:				
Butte County	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Imperial County Area:				
Imperial County	11/15/90	Nonattainment	11/15/90	Sec. 185A Area.[2]
Los Angeles-South Coast Air Basin Area	11/15/90	Nonattainment	11/15/90	Extreme.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Los Angeles County (part)—that portion of Los Angeles County which lies south and west of a line described as follows: 1. Beginning at the Los Angeles—San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian; 2. then north along the range line common to Range 8 West and Range 9 West; 3. then west along the Township line common to Township 4 North and Township 3 North; 4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West; 5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Orange County	11/15/90	Nonattainment	11/15/90	Extreme.
Riverside County (part)—that portion of Riverside County which lies to the west of a line described as follows: 1. Beginning at the Riverside—San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South;	11/15/90	Nonattainment	11/15/90	Extreme.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9. then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line,				
San Bernardino County (part)—that portion of San Bernardino County which lies south and west of a line described as follows:. 1. Beginning at the San Bernardino—Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; 2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino—Los Angeles County boundary;	11/15/90	Nonattainment	11/15/90	Extreme.
Monterey Bay Area	.....	Attainment	.....	
Monterey County San Benito County Santa Cruz County				
Sacramento Metro Area	11/15/90	Nonattainment	6/01/95	Severe-15.
El Dorado County (part): All portions of the county except that portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake.				
Placer County (part): All portions of the county except that portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.	11/15/90	Nonattainment	6/01/95	Severe-15.
Sacramento County	11/15/90	Nonattainment	6/01/95	Severe-15.
Solano County (part) That portion of Solano County which lies north and east of a line described as follows:	11/15/90	Nonattainment	6/01/95	Severe-15.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Description of boundary in Solano county between San Francisco and Sacramento: Beginning at the intersection of the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34; T. 6 N., R. 2 W., M.D.B.&M., thence east along said ¼ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10, T. 3 N., R. 1 E., thence east along section lines to the south ¼ corner of Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties	11/15/90	Nonattainment	6/01/95	Severe-15.
Sutter County (part—southern portion)South of a line connecting the northern border of Yolo Co. to the SW tip of Yuba Co. and continuing along the southern Yuba County border to Placer County.	11/15/90	Nonattainment	6/01/95	Severe-15.
Yolo County	11/15/90	Nonattainment	6/01/95	Severe-15.
San Diego Area:				
San Diego County	2/21/95	Nonattainment	2/21/95	Serious.
San Francisco-Bay Area	8/10/98	Nonattainment	8/10/98 8/23/99	Not classified/Moderate under 23 U.S.C. 104(b)(2).
Alameda County	8/10/98	.....do	8/23/99	Do.
Contra Costa County	8/10/98	.....do	8/23/99	Do.
Marin County	8/10/98	.....do	8/23/99	Do.
Napa County	8/10/98	.....do	8/23/99	Do.
San Francisco County	8/10/98	.....do	8/23/99	Do.
San Mateo County	8/10/98	.....do	8/23/99	Do.
Santa Clara County	8/10/98	.....do	8/23/99	Do.
Solano County (part)	8/10/98	.....do	8/23/99	Do.
That portion of the county that lies south and west of the line described that follows: Description of boundary in Solano County between San Francisco and Sacramento: Beginning at the intersection at the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34; T.6 N., R. 2 W., M.D.B.&M., thence east along said ½ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W, thence east along a line common to T. 5 N., and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10 T. 3 N., R. 1 E., thence east along section lines to the south ¼ corner of Section 8 T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.				
Sonoma County (part)	8/10/98	.....do	8/23/99	Do.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
That portion of Sonoma county which lies south and east of a line described as follows: Beginning at the south-easterly corner of the Rancho Estero Americano, being on the boundary line between Marin Sonoma Counties, California; thence running northerly along the easterly boundary line of said Rancho Estero Americano to the northeasterly corner thereof, being an angle corner in the westerly boundary line of Rancho Canada de Jonive, thence running along said boundary of Rancho Canada de Jonive westerly,; northerly and easterly to its intersection with the easterly line of Granton Road; thence running along the easterly and southerly line of Granton Road northerly and easterly to its intersection with the easterly line of Sullivan Road; thence running northerly along said easterly line of Sullivan Road to the southerly line of Green Valley Road; thence running easterly along the said southerly line of Green Valley Road and easterly along the southerly line of State Highway 116, to the westerly and northerly line of Vine Hill Road; thence running along the westerly and northerly line of Vine Hill Road, northerly and easterly to its intersection with the westerly line of Laguna Road; thence running northerly along the westerly line of Laguna Road and the northerly projection thereof to the northerly line of Trenton Road; thence running westerly along the northerly line of said Trenton Road to the easterly line of Trenton-Healdsburg Road to the easterly line of Eastside Road: thence running northerly along said easterly line of Eastside Road to its intersection with the southerly line of Ranco Sotoyome; thence running easterly along said southerly line of Rancho Sotoyome to its intersection with the Township line common to Townships 8 and 9 north, Mt. Diablo Base and Meridian; thence running easterly along said Township line to its intersection with the boundary line between Sonoma and Napa Counties, State of California.				
San Joaquin Valley Area:				
Fresno County	11/15/90	Nonattainment	11/15/90	Serious.
Kern County	11/15/90	Nonattainment	11/15/98	Serious.
Kings County	11/15/90	Nonattainment	11/15/90	Serious.
Madera County	11/15/90	Nonattainment	11/15/90	Serious.
Merced County	11/15/90	Nonattainment	11/15/90	Serious.
San Joaquin County	11/15/90	Nonattainment	11/15/90	Serious.
Stanislaus County	11/15/90	Nonattainment	11/15/90	Serious.
Tulare County	11/15/90	Nonattainment	11/15/90	Serious.
Santa Barbara-Santa Maria-Lompoc Area:				
Santa Barbara County	11/15/90	Nonattainment	1/09/98	Serious.
Southeast Desert Modified AQMA Area	11/15/90	Nonattainment	11/15/90	Severe-17.
Los Angeles County (part)—that portion of Los Angeles County which lies north and east of a line described as follows:				
1. Beginning at the Los Angeles—San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian;				
2. then north along the range line common to Range 8 West and Range 9 West;				
3. then west along the Township line common to Township 4 North and Township 3 North;				
4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West;				

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Riverside County (part)—that portion of Riverside County which lies to the east of a line described as follows: 1. Beginning at the Riverside—San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South; 7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9. then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line, and that portion of Riverside County which lies to the west of a line described as follows:	11/15/90	Nonattainment	11/15/90	Severe-17.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
13. beginning at the northeast corner of Section 4, Township 2 South, Range 5 East, a point on the boundary line common to Riverside and San Bernardino Counties; 14. then southerly along section lines to the centerline of the Colorado River Aquaduct; 15. then southeasterly along the centerline of said Colorado River Aquaduct to the southerly line of Section 36, Township 3 South, Range 7 East; 16. then easterly along the Township line to the northeast corner of Section 6, Township 4 South, Range 9 East; 17. then southerly along the easterly line of Section 6 to the southeast coner thereof; 18. then easterly along section lines to the northeast corner of Section 10, Township 4 South, Range 9 East; 19. then southerly along section lines to the southeast corner of Section 15, Township 4 South, Range 9 East; 20. then easterly along the section lines to the northeast corner of Section 21, Township 4 South, Range 10 East; 21. then southerly along the easterly line of Section 21 to the southeast corner thereof; 22. then easterly along the northerly line of Section 27 to the northeast corner thereof; 23. then southerly along section lines to the southeast corner of Section 34, Township 4 South, Range 10 East; 24. then easterly along the Township line to the northeast corner of Section 2, Township 5 South, Range 10 East; 25. then southerly along the easterly line of Section 2, to the southeast corner thereof; 26. then easterly along the northerly line of Section 12 to the northeast corner thereof; 27. then southerly along the range line to the southwest corner of Section 18, Township 5 South, Range 11 East; 28. then easterly along section lines to the northeast corner of Section 24, Township 5 South, Range 11 East; 29. then southerly along the range line to the southeast corner of Section 36, Township 8 South, Range 11 East, a point on the boundary line common to Riverside and San Diego Counties.				
San Bernadino County (part)—that portion of San Bernardino County which lies north and east of a line described as follows: 1. Beginning at the San Bernardino—Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian; 2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino—Los Angeles County boundary; and that portion of San Bernardino County which lies south and west of a line described as follows: 3. latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.	11/15/90	Nonattainment	11/15/90	Severe-17.
Ventura County Area:				
Ventura County	11/15/90	Nonattainment	11/15/90	Severe-15.
Yuba City Area:				
Sutter County (part—northern portion)	([3])	Nonattainment	([3])	Sec. 185A Area.2.

CALIFORNIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
North of a line connecting the northern border of Yolo County to the SW tip of Yuba County and continuing along the southern Yuba County border to Placer County.				
Yuba County	([3])	Nonattainment	([3])	Sec. 185A Area.2.
Great Basin Valleys Air Basin		Unclassifiable/Attainment		
Alpine County				
Inyo County				
Mono County				
Lake County Air Basin		Unclassifiable/Attainment		
Lake County				
Lake Tahoe Air Basin		Unclassifiable/Attainment		
El Dorado County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Placer County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Mountain Counties Air Basin (Remainder of):				
Amador County	11/15/90	Unclassifiable/Attainment	11/15/90	
Calaveras County	11/15/90	Unclassifiable/Attainment	11/15/90	
Mariposa County		Unclassifiable/Attainment		
Nevada County		Unclassifiable/Attainment		
Plumas County		Unclassifiable/Attainment		
Sierra County		Unclassifiable/Attainment		
Tuolumne County		Unclassifiable/Attainment		
North Coast Air Basin		Unclassifiable/Attainment		
Del Norte County				
Humboldt County				
Mendocino County				
Sonoma County (part)				
Remainder of County				
Trinity County				
Northeast Plateau Air Basin		Unclassifiable/Attainment		
Lassen County				
Modoc County				
Siskiyou Couny				
Sacramento Valley Air Basin (Remainder of):				
Colusa County		Unclassifiable/Attainment		
Glenn County		Unclassifiable/Attainment		
Shasta County		Unclassifiable/Attainment		
Tehama County		Unclassifiable/Attainment		
South Central Coast Air Basin (Remainder of):				
Channel Islands		Unclassifiable/Attainment		
San Luis Obispo County		Unclassifiable/Attainment		
Southeast Desert NON-AQMA:				
Riverside County (part)				
Remainder of county		Unclassifiable/Attainment		
San Bernadino County (part)				
Remainder of county		Unclassifiable/Attainment		

[1] This date is October 18, 2000 unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.
[3] This date is January 16, 2001.

* * * * *

7. In § 81.306, the table entitled ''Colorado—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Denver—Boulder Area:				
Adams County (part)				
West of Kiowa Creek	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Arapahoe County (part)				
West of Kiowa Creek.	([3])	Nonattainment	([3])	Sec. 185A Area.[2]

COLORADO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Boulder County (part) excluding Rocky Mtn. National Park.	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Denver County	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Douglas County	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Jefferson County	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
State AQCR 01		Unclassifiable/Attainment		
Logan County				
Morgan County				
Phillips County				
Sedgwick County				
Washington County				
Yuma County				
State AQCR 02		Unclassifiable/Attainment		
Larimer County				
Weld County				
State AQCR 03 (Remainder of)		Unclassifiable/Attainment		
Adams County (part) East of Kiowa Creek				
Arapahoe County (part) East of Kiowa Creek				
Boulder County (part) Rocky Mtn. National Park Only				
Clear Creek County				
Gilpin County				
State AQCR 11		Unclassifiable/Attainment		
Garfield County				
Mesa County				
Moffat County				
Rio Blanco County				
Rest of State		Unclassifiable/Attainment		
Alamosa County				
Archuleta County				
Baca County				
Bent County				
Chaffee County				
Cheyenne County				
Conejos County				
Costilla County				
Crowley County				
Custer County				
Delta County				
Dolores County				
Eagle County				
El Paso County				
Elbert County				
Fremont County				
Grand County				
Gunnison County				
Hinsdale County				
Huerfano County				
Jackson County				
Kiowa County				
Kit Carson County				
La Plata County				
Lake County				
Las Animas County				
Lincoln County				
Mineral County				
Montezuma County				
Montrose County				
Otero County				
Ouray County				
Park County				
Pitkin County				
Prowers County				
Pueblo County				
Rio Grande County				
Routt County				
Saguache County				
San Juan County				
San Miguel County				
Summit County				

COLORADO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Teller County				

[1] This date is October 18, 2000, unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.
[3] This date is January 16, 2001.

8. In § 81.307, the table entitled ''Connecticut—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Greater Connecticut Area:				
Fairfield County (part)		Nonattainment		Serious.
Shelton City				
Hartford County		Nonattainment		Serious.
Litchfield County (part)		Nonattainment		Serious.
all cities and townships except: Bridgewater Town, New Milford Town				
Middlesex County		Nonattainment		Serious.
New Haven County		Nonattainment		Serious.
New London County		Nonattainment		Serious.
Tolland County		Nonattainment		Serious.
Windham County		Nonattainment		Serious.
New York—N. New Jersey-Long Island Area:				
Fairfield County (part)		Nonattainment		Severe-17.
all cities and towns except Shelton City				
Litchfield County (part)		Nonattainment		Severe-17.
Bridgewater Town, New Milford Town				

[1] This date is November 15, 1990, unless otherwise noted.

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9. In § 81.308, the table entitled ''Delaware—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.308 Delaware.

* * * * *

DELAWARE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Philadelphia-Wilmington-Trenton Area:				
Kent County		Nonattainment		Severe-15.
New Castle County		Nonattainment		Severe-15.
Sussex County Area:				
Sussex County	(2)	Nonattainment	(2)	Marginal.

[1] This date is November 15, 1990, unless otherwise noted.
[2] This date is October 18, 2000.

* * * * *

10. In § 81.309, the table entitled ''District of Columbia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.309 District of Columbia.

* * * * *

DISTRICT OF COLUMBIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Washington Area:				
Washington Entire Area	.....	Nonattainment	.....	Serious.

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

11. In § 81.310, the table entitled ''Florida—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.310 Florida.

* * * * *

FLORIDA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Alachua County				
Baker County				
Bay County				
Bradford County				
Brevard County				
Broward County				
Calhoun County				
Charlotte County				
Citrus County				
Clay County				
Collier County				
Columbia County				
Dade County				
De Soto County				
Dixie County				
Duval County				
Escambia County				
Flagler County				
Franklin County				
Gadsden County				
Gilchrist County				
Glades County				
Gulf County				
Hamilton County				
Hardee County				
Hendry County				
Hernando County				
Highlands County				
Hillsborough County				
Holmes County				
Indian River County				
Jackson County				
Jefferson County				
Lafayette County				
Lake County				
Lee County				
Leon County				
Levy County				
Liberty County				
Madison County				
Manatee County				
Marion County				
Martin County				
Monroe County				
Nassau County				
Okaloosa County				
Okeechobee County				
Orange County				
Osceola County				
Palm Beach County				
Pasco County				
Pinellas County				
Polk County				

FLORIDA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Putnam County				
Santa Rosa County				
Sarasota County				
Seminole County				
St. Johns County				
St. Lucie County				
Sumter County				
Suwannee County				
Taylor County				
Union County				
Volusia County				
Wakulla County				
Walton County				
Washington County				

[1] This date is October 18, 2000, unless otherwise noted.

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12. In § 81.311, the table entitled ''Georgia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.311 Georgia.

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GEORGIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Atlanta Area:				
Cherokee County	11/15/90	Nonattainment	11/15/90	Serious.
Clayton County	11/15/90	Nonattainment	11/15/90	Serious.
Cobb County	11/15/90	Nonattainment	11/15/90	Serious.
Coweta County	11/15/90	Nonattainment	11/15/90	Serious.
De Kalb County	11/15/90	Nonattainment	11/15/90	Serious.
Douglas County	11/15/90	Nonattainment	11/15/90	Serious.
Fayette County	11/15/90	Nonattainment	11/15/90	Serious.
Forsyth County	11/15/90	Nonattainment	11/15/90	Serious.
Fulton County	11/15/90	Nonattainment	11/15/90	Serious.
Gwinnett County	11/15/90	Nonattainment	11/15/90	Serious.
Henry County	11/15/90	Nonattainment	11/15/90	Serious.
Paulding County	11/15/90	Nonattainment	11/15/90	Serious.
Rockdale County	11/15/90	Nonattainment	11/15/90	Serious.
Spalding County Area:				
Spalding County	11/15/90	Unclassifiable/Attainment	11/15/90	
Rest of State	.....	Unclassifiable/Attainment		
Appling County				
Atkinson County				
Bacon County				
Baker County				
Baldwin County				
Banks County				
Barrow County				
Bartow County				
Ben Hill County				
Berrien County				
Bibb County				
Bleckley County				
Brantley County				
Brooks County				
Bryan County				
Bulloch County				
Burke County				
Butts County				
Calhoun County				
Camden County				
Candler County				
Carroll County				
Catoosa County				
Charlton County				
Chatham County				

GEORGIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chattahoochee County				
Chattooga County				
Clarke County				
Clay County				
Clinch County				
Coffee County				
Colquitt County				
Columbia County				
Cook County				
Crawford County				
Crisp County				
Dade County				
Dawson County				
Decatur County				
Dodge County				
Dooly County				
Dougherty County				
Early County				
Echols County				
Effingham County				
Elbert County				
Emanuel County				
Evans County				
Fannin County				
Floyd County				
Franklin County				
Gilmer County				
Glascock County				
Glynn County				
Gordon County				
Grady County				
Greene County				
Habersham County				
Hall County				
Hancock County				
Haralson County				
Harris County				
Hart County				
Heard County				
Houston County				
Irwin County				
Jackson County				
Jasper County				
Jeff Davis County				
Jefferson County				
Jenkins County				
Johnson County				
Jones County				
Lamar County				
Lanier County				
Laurens County				
Lee County				
Liberty County				
Lincoln County				
Long County				
Lowndes County				
Lumpkin County				
Macon County				
Madison County				
Marion County				
McDuffie County				
McIntosh County				
Meriwether County				
Miller County				
Mitchell County				
Monroe County				
Montgomery County				
Morgan County				
Murray County				
Muscogee County				

GEORGIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Newton County				
Oconee County				
Oglethorpe County				
Peach County				
Pickens County				
Pierce County				
Pike County				
Polk County				
Pulaski County				
Putnam County				
Quitman County				
Rabun County				
Randolph County				
Richmond County				
Schley County				
Screven County				
Seminole County				
Stephens County				
Stewart County				
Sumter County				
Talbot County				
Taliaferro County				
Tattnall County				
Taylor County				
Telfair County				
Terrell County				
Thomas County				
Tift County				
Toombs County				
Towns County				
Treutlen County				
Troup County				
Turner County				
Twiggs County				
Union County				
Upson County				
Walker County				
Walton County				
Ware County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
White County				
Whitfield County				
Wilcox County				
Wilkes County				
Wilkinson County				
Worth County				

[1] This date is October 18, 2000, unless otherwise noted.

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13. In § 81.312, the table entitled ''Hawaii—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.312 Hawaii.

* * * * *

HAWAII—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide	.....	Unclassifiable/Attainment		
Hawaii County				
Honolulu County				
Kalawao				
Kauai County				

HAWAII—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Maui County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

14. In § 81.313, the table entitled ''Idaho—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.313 Idaho.

* * * * *

IDAHO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 61 Eastern Idaho Intrastate	.....	Unclassifiable/Attainment		
Bannock County				
Bear Lake County				
Bingham County				
Bonneville County				
Butte County				
Caribou County				
Clark County				
Franklin County				
Fremont County				
Jefferson County				
Madison County				
Oneida County				
Power County				
Teton County				
AQCR 62 E Washington-N Idaho Interstate	.....	Unclassifiable/Attainment		
Benewah County				
Kootenai County				
Latah County				
Nez Perce County				
Shoshone County				
AQCR 63 Idaho Intrastate	.....	Unclassifiable/Attainment		
Adams County				
Blaine County				
Boise County				
Bonner County				
Boundary County				
Camas County				
Cassia County				
Clearwater County				
Custer County				
Elmore County				
Gem County				
Gooding County				
Idaho County				
Jerome County				
Lemhi County				
Lewis County				
Lincoln County				
Minidoka County				
Owyhee County				
Payette County				
Twin Falls County				
Valley County				
Washington County				
AQCR 64 Metropolitan Boise Interstate	.....	Unclassifiable/Attainment		
Ada County				
Canyon County				

[1] This date is October 18, 2000, unless otherwise noted.

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15. In § 81.314, the table entitled ''Illinois—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Chicago-Gary-Lake County Area:				
Cook County	11/15/90	Nonattainment	11/15/90	Severe-17.
Du Page County	11/15/90	Nonattainment	11/15/90	Severe-17.
Grundy County (part)				
Aux Sable Township	11/15/90	Nonattainment	11/15/90	Severe-17.
Goose Lake Township	11/15/90	Nonattainment	11/15/90	Severe-17.
Kane County	11/15/90	Nonattainment	11/15/90	Severe-17.
Kendall County (part)				
Oswego Township	11/15/90	Nonattainment	11/15/90	Severe-17.
Lake County	11/15/90	Nonattainment	11/15/90	Severe-17.
McHenry County	11/15/90	Nonattainment	11/15/90	Severe-17.
Will County	11/15/90	Nonattainment	11/15/90	Severe-17.
Jersey County Area:				
Jersey County		Attainment[2].		
St. Louis Area:				
Madison County	11/15/90	Nonattainment	11/15/90	Moderate.
Monroe County	11/15/90	Nonattainment	11/15/90	Moderate.
St. Clair County	11/15/90	Nonattainment	11/15/90	Moderate.
Adams County		Unclassifiable/Attainment		
Alexander County		Unclassifiable/Attainment		
Bond County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Bureau County		Unclassifiable/Attainment		
Calhoun County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Coles County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
De Witt County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edgar County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Effingham County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Grundy County (part) All townships except Aux Sable and Goose Lake.		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Iroquois County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jo Daviess County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kankakee County		Unclassifiable/Attainment		
Kendall County (part) All townships except Oswego		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
La Salle County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Macon County		Unclassifiable/Attainment		
Macoupin County		Unclassifiable/Attainment		

ILLINOIS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
Massac County		Unclassifiable/Attainment		
McDonough County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Menard County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Moultrie County		Unclassifiable/Attainment		
Ogle County		Unclassifiable/Attainment		
Peoria County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Piatt County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Pope County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock Island County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Sangamon County		Unclassifiable/Attainment		
Schuyler County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Stark County		Unclassifiable/Attainment		
Stephenson County		Unclassifiable/Attainment		
Tazewell County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vermilion County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whiteside County		Unclassifiable/Attainment		
Williamson County		Unclassifiable/Attainment		
Winnebago County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] April 13, 1995.

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16. In § 81.315, the table entitled ''Indiana—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Chicago-Gary-Lake County Area:				
Lake County	11/15/90	Nonattainment	11/15/90	Severe-17
Porter County	11/15/90	Nonattainment	11/15/90	Severe-17
Evansville Area:				
Vanderburgh County		Attainment		
Indianapolis Area:				
Marion County		Attainment		
Louisville Area: Clark County	11/15/90	Nonattainment	11/15/90	Moderate [2]
Floyd County	11/15/90	Nonattainment	11/15/90	Moderate [2]
South Bend-Elkhart Area:				
Elkhart County		Attainment		
St Joseph County		Attainment		
Allen County		Unclassifiable/Attainment		
Adams County		Unclassifiable/Attainment		

INDIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Bartholomew County		Unclassifiable/Attainment		
Benton County		Unclassifiable/Attainment		
Blackford County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Daviess County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
Dearborn County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Delaware County		Unclassifiable/Attainment		
Dubois County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fountain County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gibson County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hendricks County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Howard County		Unclassifiable/Attainment		
Huntington County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jay County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jennings County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Kosciusko County		Unclassifiable/Attainment		
La Porte County	11/15/90	Unclassifiable/Attainment	11/15/90	
Lagrange County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Newton County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Orange County		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Parke County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Posey County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Ripley County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Starke County		Unclassifiable/Attainment		
Steuben County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Switzerland County		Unclassifiable/Attainment		
Tippecanoe County		Unclassifiable/Attainment		

INDIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Tipton County	.....	Unclassifiable/Attainment		
Union County	.....	Unclassifiable/Attainment		
Vermillion County	.....	Unclassifiable/Attainment		
Vigo County	.....	Unclassifiable/Attainment		
Wabash County	.....	Unclassifiable/Attainment		
Warren County	.....	Unclassifiable/Attainment		
Warrick County	.....	Unclassifiable/Attainment		
Washington County	.....	Unclassifiable/Attainment		
Wayne County	.....	Unclassifiable/Attainment		
Wells County	.....	Unclassifiable/Attainment		
White County	.....	Unclassifiable/Attainment		
Whitley County	.....	Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

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17. In § 81.316, the table entitled ''Iowa—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.316 Iowa.

* * * * *

IOWA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide	.....	Unclassifiable/Attainment		
Adair County				
Adams County				
Allamakee County				
Appanoose County				
Audubon County				
Benton County				
Black Hawk County				
Boone County				
Bremer County				
Buchanan County				
Buena Vista County				
Butler County				
Calhoun County				
Carroll County				
Cass County				
Cedar County				
Cerro Gordo County				
Cherokee County				
Chickasaw County				
Clarke County				
Clay County				
Clayton County				
Clinton County				
Crawford County				
Dallas County				
Davis County				
Decatur County				
Delaware County				
Des Moines County				
Dickinson County				
Dubuque County				
Emmet County				
Fayette County				
Floyd County				
Franklin County				
Fremont County				
Greene County				
Grundy County				
Guthrie County				
Hamilton County				
Hancock County				
Hardin County				
Harrison County				

IOWA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Henry County				
Howard County				
Humboldt County				
Ida County				
Iowa County				
Jackson County				
Jasper County				
Jefferson County				
Johnson County				
Jones County				
Keokuk County				
Kossuth County				
Lee County				
Linn County				
Louisa County				
Lucas County				
Lyon County				
Madison County				
Mahaska County				
Marion County				
Marshall County				
Mills County				
Mitchell County				
Monona County				
Monroe County				
Montgomery County				
Muscatine County				
O'Brien County				
Osceola County				
Page County				
Palo Alto County				
Plymouth County				
Pocahontas County				
Polk County				
Pottawattamie County				
Poweshiek County				
Ringgold County				
Sac County				
Scott County				
Shelby County				
Sioux County				
Story County				
Tama County				
Taylor County				
Union County				
Van Buren County				
Wapello County				
Warren County				
Washington County				
Wayne County				
Webster County				
Winnebago County				
Winneshiek County				
Woodbury County				
Worth County				
Wright County				

[1] This date is October 18, 2000, unless otherwise noted.

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18. In § 81.317, the table entitled ''Kansas—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Atchison County		Unclassifiable/Attainment		
Barber County		Unclassifiable/Attainment		
Barton County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Chase County		Unclassifiable/Attainment		
Chautauqua County		Unclassifiable/Attainment		
Cherokee County		Unclassifiable/Attainment		
Cheyenne County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Cloud County		Unclassifiable/Attainment		
Coffey County		Unclassifiable/Attainment		
Comanche County		Unclassifiable/Attainment		
Cowley County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Dickinson County		Unclassifiable/Attainment		
Doniphan County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		
Ellis County		Unclassifiable/Attainment		
Ellsworth County		Unclassifiable/Attainment		
Finney County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Geary County		Unclassifiable/Attainment		
Gove County		Unclassifiable/Attainment		
Graham County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Gray County		Unclassifiable/Attainment		
Greeley County		Unclassifiable/Attainment		
Greenwood County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Harper County		Unclassifiable/Attainment		
Harvey County		Unclassifiable/Attainment		
Haskell County		Unclassifiable/Attainment		
Hodgeman County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jewell County		Unclassifiable/Attainment		
Johnson County	7/23/92	Unclassifiable/Attainment		
Kearny County		Unclassifiable/Attainment		
Kingman County		Unclassifiable/Attainment		
Kiowa County		Unclassifiable/Attainment		
Labette County		Unclassifiable/Attainment		
Lane County		Unclassifiable/Attainment		
Leavenworth County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Linn County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
McPherson County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Mitchell County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morris County		Unclassifiable/Attainment		
Morton County		Unclassifiable/Attainment		
Nemaha County		Unclassifiable/Attainment		
Neosho County		Unclassifiable/Attainment		
Ness County		Unclassifiable/Attainment		
Norton County		Unclassifiable/Attainment		
Osage County		Unclassifiable/Attainment		

KANSAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Osborne County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Pawnee County		Unclassifiable/Attainment		
Phillips County		Unclassifiable/Attainment		
Pottawatomie County		Unclassifiable/Attainment		
Pratt County		Unclassifiable/Attainment		
Rawlins County		Unclassifiable/Attainment		
Reno County		Unclassifiable/Attainment		
Republic County		Unclassifiable/Attainment		
Rice County		Unclassifiable/Attainment		
Riley County		Unclassifiable/Attainment		
Rooks County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Sedgwick County		Unclassifiable/Attainment		
Seward County		Unclassifiable/Attainment		
Shawnee County		Unclassifiable/Attainment		
Sheridan County		Unclassifiable/Attainment		
Sherman County		Unclassifiable/Attainment		
Smith County		Unclassifiable/Attainment		
Stafford County		Unclassifiable/Attainment		
Stanton County		Unclassifiable/Attainment		
Stevens County		Unclassifiable/Attainment		
Sumner County		Unclassifiable/Attainment		
Thomas County		Unclassifiable/Attainment		
Trego County		Unclassifiable/Attainment		
Wabaunsee County		Unclassifiable/Attainment		
Wallace County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wichita County		Unclassifiable/Attainment		
Wilson County		Unclassifiable/Attainment		
Woodson County		Unclassifiable/Attainment		
Wyandotte County	7/23/92	Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

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19. In § 81.318, the table entitled ''Kentucky—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.316 Kentucky.

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KENTUCKY—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati-Hamilton Area:				
Boone County	7/5/00	Attainment		
Campbell County	7/5/00	Attainment		
Kenton County	7/5/00	Attainment		
Edmonson County Area:				
Edmonson County	.....	Unclassifiable/Attainment		
Louisville Area:				
Bullitt County (part): The area boundary is as follows: Beginning at the intersection of Ky 1020 and the Jefferson-Bullitt County Line proceeding to the east along the county line to the intersection of county road 567 and the Jefferson-Bullitt County Line; proceeding south on county road 567 to the junction with Ky 1116 (also known as Zoneton Road); proceeding to the south on Ky 1116 to the junction with Hebron Lane; proceeding to the south on Hebron Lane to Cedar Creek; proceeding south on Cedar Creek to the confluence of Floyds Fork turning southeast along a creek that meets Ky 44 at Stallings Cemetery; proceeding west along Ky 44 to the eastern most point in the Shepherdsville city limits; proceeding south along the Shepherdsville city limits to the Salt River and west to a point across the river from Mooney Lane; proceeding south along Mooney Lane to the junction of Ky 480; proceeding west on Ky 480 to the junction with Ky 2237; proceeding south on Ky 2237 to the junction with Ky 61 and proceeding north on Ky 61 to the junction with Ky 1494; proceeding south on Ky 1494 to the junction with the perimeter of the Fort Knox Military Reservation; proceeding north along the military reservation perimeter to Castleman Branch Road; proceeding north on Castleman Branch Road to Ky 44; proceeding a very short distance west on Ky 44 to a junction with Ky 2723; proceeding north on Ky 2723 to the junction of Chillicoop Road; proceeding northeast on Chillicoop Road to the junction of KY 2673; proceeding north on KY 2673 to the junction of KY 1020; proceeding north on KY 1020 to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.	11/15/90	Nonattainment	11/15/90	Moderate.[2]
Jefferson County	11/15/90	Nonattainment	11/15/90	Moderate.[2]

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Oldham County (part): The area boundary is as follows: Beginning at the intersection of the Oldham-Jefferson County Line with the southbound lane of Interstate 71; proceeding to the northeast along the southbound lane of Interstate 71 to the intersection of Ky 329 and the southbound lane of Interstate 71; proceeding to the northwest on Ky 329 to the intersection of Zaring Road and Ky 329; proceeding to the east-northeast on Zaring Road to the junction of Cedar Point Road and Zaring Road; proceeding to the north-northeast on Cedar Point Road to the junction of Ky 393 and Cedar Point Road; proceeding to the south-southeast on Ky 393 to the junction of (the access road on the north side of Reformatory Lake and the Reformatory); proceeding to the east-northeast on the access road to the junction with Dawkins Lane and the access road; proceeding to follow an electric power line east-northeast across from the junction of county road 746 and Dawkins Lane to the east-northeast across Ky 53 on to the La Grange Water Filtration Plant; proceeding on to the east-southeast along the power line then south across Fort Pickens Road to a power substation on Ky 146; proceeding along the power line south across Ky 146 and the Seaboard System Railroad track to adjoin the incorporated city limits of La Grange; then proceeding east then south along the La Grange city limits to a point abutting the north side of Ky 712; proceeding east-southeast on Ky 712 to the junction of Massie School Road and Ky 712; proceeding to the south-southwest on Massie School Road to the intersection of Massie School Road and Zale Smith Road; proceeding northeast on Zale Smith Road to the junction of KY 53 and Zale Smith Road; proceeding on Ky 53 to the north-northwest to the junction of New Moody Lane and Ky 53; proceeding on New Moody Lane to the south-southwest until meeting the city limits of La Grange; then briefly proceeding north following the La Grange city limits to the intersection of the northbound lane of Interstate 71 and the La Grange city limits; proceeding southwest on the north-bound lane of Interstate 71 until inter-secting with the North Fork of Currys Fork; proceeding south-southwest beyond the con-fluence of Currys Fork to the south-southwest beyond the confluence of Floyds Fork continuing on to the Oldham-Jefferson County Line; proceeding northwest along the Oldham-Jefferson County Line to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.	11/15/90	Nonattainment	11/15/90	Moderate.[2]
Owensboro Area:				
Daviess County	.....	Unclassifiable/Attainment		
Hancock County	.....	Unclassifiable/Attainment		
The area boundary is as follows: Beginning at the Intersection of U.S. 60 and the Hancock-Daviess County Line; proceeding east along U.S. 60 to the intersection of Yellow Creek and U.S. 60; proceeding north and west along Yellow Creek to the confluence of the Ohio River; proceeding west along the Ohio River to the confluence of Blackford Creek; proceeding south and east along Blackford Creek to the beginning.				
Adair County	.....	Unclassifiable/Attainment		
Allen County	.....	Unclassifiable/Attainment		
Anderson County	.....	Unclassifiable/Attainment		
Ballard County	.....	Unclassifiable/Attainment		
Barren County	.....	Unclassifiable/Attainment		
Bath County	.....	Unclassifiable/Attainment		

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Bell County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Boyd County		Unclassifiable/Attainment		
Boyle County		Unclassifiable/Attainment		
Bracken County		Unclassifiable/Attainment		
Breathitt County		Unclassifiable/Attainment		
Breckinridge County		Unclassifiable/Attainment		
Bullitt County (part)				
Remainder of county		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Caldwell County		Unclassifiable/Attainment		
Calloway County		Unclassifiable/Attainment		
Carlisle County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Casey County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crittenden County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
Elliott County		Unclassifiable/Attainment		
Estill County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fleming County		Unclassifiable/Attainment		
Floyd County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Garrard County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Graves County		Unclassifiable/Attainment		
Grayson County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Greenup County		Unclassifiable/Attainment		
Hancock County (part)				
Remainder of county		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harlan County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hart County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Hickman County		Unclassifiable/Attainment		
Hopkins County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jessamine County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knott County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Larue County		Unclassifiable/Attainment		
Laurel County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Leslie County		Unclassifiable/Attainment		
Letcher County		Unclassifiable/Attainment		
Lewis County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Magoffin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
McCracken County		Unclassifiable/Attainment		
McCreary County		Unclassifiable/Attainment		

KENTUCKY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
McLean County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Menifee County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Metcalfe County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Muhlenberg County		Unclassifiable/Attainment		
Nelson County		Unclassifiable/Attainment		
Nicholas County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Oldham County (part)				
Remainder of county		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Owsley County		Unclassifiable/Attainment		
Pendleton County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Robertson County		Unclassifiable/Attainment		
Rockcastle County		Unclassifiable/Attainment		
Rowan County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Simpson County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Todd County		Unclassifiable/Attainment		
Trigg County		Unclassifiable/Attainment		
Trimble County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Webster County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		
Wolfe County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

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20. In § 81.319, the table entitled ''Louisiana—Ozone (1-Hour Standard)'' is revised to read as follows:

81.319 Louisiana.

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LOUISIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baton Rouge Area:				
Ascension Parish	11/15/90	Nonattainment	11/15/90	Serious.
East Baton Rouge Parish	11/15/90	Nonattainment	11/15/90	Serious.
Iberville Parish	11/15/90	Nonattainment	11/15/90	Serious.
Livingston Parish	11/15/90	Nonattainment	11/15/90	Serious.
West Baton Rouge Parish	11/15/90	Nonattainment	11/15/90	Serious.
Beauregard Parish Area:				
Beauregard Parish		Attainment.		
Grant Parish Area:				
Grant Parish		Attainment.		
Lafayette Area:				
Lafayette Parish		Attainment.		
Lafourche Parish Area:				
Lafourche Parish	1/05/98	Nonattainment	1/05/98	Incomplete Data.

LOUISIANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Lake Charles Area:				
Calcasieu Parish	.....	Attainment.		
New Orleans Area:				
Jefferson Parish	.....	Attainment.		
Orleans Parish	.....	Attainment.		
St. Bernard Parish	.....	Attainment.		
St. Charles Parish	.....	Attainment.		
Pointe Coupee Area:				
Pointe Coupee Parish	.....	Attainment.		
St. James Parish Area:				
St. James Parish	.....	Attainment.		
St. Mary Parish Area:				
St. Mary Parish	.....	Attainment.		
AQCR 019 Monroe-El Dorado Interstate	.....	Unclassifiable/Attainment.		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Interstate	.....	Unclassifiable/Attainment		
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Red River Parish				
Sabine Parish				
Webster Parish				
Winn Parish				
AQCR 106 S. Louisiana-S.E. Texas Interstate				
St. John The Baptist Parish	.....	Unclassifiable/Attainment		
AQCR 106 S. Louisiana-S.E. Texas Interstate	.....	Unclassifiable/Attainment		
Acadia Parish				
Allen Parish				
Assumption Parish				
Avoyelles Parish				
Cameron Parish				
East Feliciana Parish				
Evangeline Parish				
Iberia Parish				
Jefferson Davis Parish				
Plaquemines Parish				
Rapides Parish				
St. Helena Parish				
St. Landry Parish				
St. Martin Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Vernon Parish				
Washington Parish				
West Feliciana Parish				

[1] This date is October 18, 2000, unless otherwise noted.

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21. In § 81.320, the table entitled ''Maine—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.320 Maine.

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MAINE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Franklin County Area:				
Franklin County (part)	.....	Unclassifiable/Attainment		
Hancock County and Waldo County Area:				
Hancock County	.....	Attainment		
Waldo County	.....	Attainment		
Knox County and Lincoln County Area:				
Knox County	(3)	Nonattainment	(3)	Moderate.
Lincoln County	(3)	Nonattainment	(3)	Moderate.
Lewiston-Auburn Area:				
Androscoggin County	(3)	Nonattainment	(3)	Moderate.
Kennebec County	(3)	Nonattainment	(3)	Moderate.
Oxford County Area:				
Oxford County (part)	.....	Unclassifiable/Attainment		
Portland Area:				
Cumberland County	(3)	Nonattainment	(3)	Moderate.[2]
Sagadahoc County	(3)	Nonattainment	(3)	Moderate.[2]
York County	(3)	Nonattainment	(3)	Moderate.[2]
Somerset County Area:				
Somerset County (part)	.....	Unclassifiable/Attainment		
AQCR 108 Aroostook Intrastate	.....	Unclassifiable/Attainment		
Aroostook County (part) see 40 CFR 81.179.				
AQCR 109 Down East Intrastate	.....	Unclassifiable/Attainment		
Penobscot County (part), as described under 40 CFR 81.181				
Piscataquis County (part) see 40 CFR 81.181				
Washington County				
AQCR 111 Northwest Maine Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
see 40 CFR 81.182				
Aroostook County				
Franklin County (part)				
Oxford County (part)				
Penobscot County (part)				
Piscataquis County (part)				
Somerset County (part)				

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.
[3] This date is January 16, 2001.

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22. In § 81.321, the table entitled ''Maryland—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.321 Maryland.

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MARYLAND—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baltimore Area:				
Anne Arundel County	11/15/90	Nonattainment	11/15/90	Severe-15.
Baltimore				
City of Baltimore	11/15/90	Nonattainment	11/15/90	Severe-15.
Baltimore County	11/15/90	Nonattainment	11/15/90	Severe-15.
Carroll County	11/15/90	Nonattainment	11/15/90	Severe-15.
Harford County	11/15/90	Nonattainment	11/15/90	Severe-15.
Howard County	11/15/90	Nonattainment	11/15/90	Severe-15.
Kent County and Queen Anne's County Area:				
Kent County	1/6/92	Nonattainment	1/6/92	Marginal.
Queen Anne's County	1/6/92	Nonattainment	1/6/92	Marginal.
Philadelphia-Wilmington-Trenton Area:				
Cecil County	11/15/90	Nonattainment	11/15/90	Severe-15.
Washington, DC Area:				
Calvert County	11/15/90	Nonattainment	11/15/90	Serious.
Charles County	11/15/90	Nonattainment	11/15/90	Serious.

MARYLAND—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Frederick County	11/15/90	Nonattainment	11/15/90	Serious.
Montgomery County	11/15/90	Nonattainment	11/15/90	Serious.
Prince George's County	11/15/90	Nonattainment	11/15/90	Serious.
AQCR 113 Cumberland-Keyser Interstate		Unclassifiable/Attainment.		
Allegany County				
Garrett County				
Washington County				
AQCR 114 Eastern Shore Interstate (Remainder of)		Unclassifiable/Attainment		
Caroline County				
Dorchester County				
Somerset County				
Talbot County				
Wicomico County				
Worcester County				
AQCR 116 Southern Maryland Intrastate (Remainder of)		Unclassifiable/Attainment		
St. Mary's County				

[1] This date is October 18, 2000, unless otherwise noted.

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23. In § 81.322, the table entitled ''Massachusetts—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.322 Massachusetts.

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MASSACHUSETTS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Boston-Lawrence-Worcester (E. Mass) Area:				
Barnstable County	(2)	Nonattainment	(2)	Serious.
Bristol County	(2)	Nonattainment	(2)	Serious.
Dukes County	(2)	Nonattainment	(2)	Serious.
Essex County	(2)	Nonattainment	(2)	Serious.
Middlesex County	(2)	Nonattainment	(2)	Serious.
Nantucket County	(2)	Nonattainment	(2)	Serious.
Norfolk County	(2)	Nonattainment	(2)	Serious.
Plymouth County	(2)	Nonattainment	(2)	Serious.
Suffolk County	(2)	Nonattainment	(2)	Serious.
Worcester County	(2)	Nonattainment	(2)	Serious.
Springfield (W. Mass) Area:				
Berkshire County		Nonattainment		Serious.
Franklin County		Nonattainment		Serious.
Hampden County		Nonattainment		Serious.
Hampshire County		Nonattainment		Serious.

[1] This date is November 15, 1990, unless otherwise noted.
[2] This date is January 16, 2001.

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24. 81.323, the table entitled ''Michigan—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.323 Michigan.

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MICHIGAN—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allegan County Area:				
Allegan County	(3)	Nonattainment	(3)	Incomplete Data.
Barry County Area:				
Barry County		Unclassifiable/Attainment		
Battle Creek Area:				
Calhoun County		Unclassifiable/Attainment		
Benton Harbor Area:				
Berrien County		Unclassifiable/Attainment		

MICHIGAN—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Branch County Area:				
Branch County	.....	Unclassifiable/Attainment		
Cass County Area:				
Cass County	.....	Unclassifiable/Attainment		
Detroit-Ann Arbor Area:				
Livingston County	.....	Attainment		
Macomb County	.....	Attainment		
Monroe County	.....	Attainment		
Oakland County	.....	Attainment		
St. Clair County	.....	Attainment		
Washtenaw County	.....	Attainment		
Wayne County	.....	Attainment		
Flint Area:				
Genesee County	([3])	Nonattainment	([3])	Sec. 185A Area.[2]
Grand Rapids Area:				
Kent County	.....	Attainment		
Ottawa County	.....	Attainment		
Gratiot County Area:				
Gratiot County	.....	Unclassifiable/Attainment		
Hillsdale County Area:				
Hillsdale County	.....	Unclassifiable/Attainment		
Huron County Area:				
Huron County	.....	Unclassifiable/Attainment		
Ionia County Area:				
Ionia County	.....	Unclassifiable/Attainment		
Jackson Area:				
Jackson County	.....	Unclassifiable/Attainment		
Kalamazoo Area:				
Kalamazoo County	.....	Unclassifiable/Attainment		
Lansing-East Lansing Area:				
Clinton County	.....	Unclassifiable/Attainment		
Eaton County	.....	Unclassifiable/Attainment		
Ingham County	.....	Unclassifiable/Attainment		
Lapeer County Area:				
Lapeer County	.....	Unclassifiable/Attainment		
Lenawee County Area:				
Lenawee County	.....	Unclassifiable/Attainment		
Montcalm Area:				
Montcalm County	.....	Unclassifiable/Attainment		
Muskegon Area:				
Muskegon County	([3])	Nonattainment	([3])	Moderate.
Saginaw-Bay City-Midland Area:				
Bay County	([3])	Nonattainment	([3])	Incomplete Data.
Midland County	([3])	Nonattainment	([3])	Incomplete Data.
Saginaw County	([3])	Nonattainment	([3])	Incomplete Data.
Sanilac County Area:				
Sanilac County	.....	Unclassifiable/Attainment		
Shiawassee County Area:				
Shiawassee County	.....	Unclassifiable/Attainment		
St. Joseph County Area:				
St. Joseph County	.....	Unclassifiable/Attainment		
Tuscola County Area:				
Tuscola County	.....	Unclassifiable/Attainment		
Van Buren County Area:				
Van Buren County	.....	Unclassifiable/Attainment		
AQCR 122 Central Michigan Intrastate (Remainder of):	.....	Unclassifiable/Attainment		
Arenac County				
Clare County				
Gladwin County				
Iosco County				
Isabella County				
Lake County				
Mason County				
Mecosta County				
Newaygo County				
Oceana County				
Ogemaw County				
Osceola County				
Roscommon County				
AQCR 126 Upper Michigan Intrastate (part) Marquette County.	.....	Unclassifiable/Attainment		

MICHIGAN—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 126 Upper Michigan Intrastate (Remainder of):	.....	Unclassifiable/Attainment		
Alcona County				
Alger County				
Alpena County				
Antrim County				
Baraga County				
Benzie County				
Charlevoix County				
Cheboygan County				
Chippewa County				
Crawford County				
Delta County				
Dickinson County				
Emmet County				
Gogebic County				
Grand Traverse County				
Houghton County				
Iron County				
Kalkaska County				
Keweenaw County				
Leelanau County				
Luce County				
Mackinac County				
Manistee County				
Menominee County				
Missaukee County				
Montmorency County				
Ontonagon County				
Oscoda County				
Otsego County				
Presque Isle County				
Schoolcraft County				
Wexford County				

[1] This date is October 18, 2000, unless otherwise noted.
[2] An area designated as an ozone nonattainment area as of the date of enactment of the CAAA of the 1990 that did not violate the ozone NAAQS during the period of 1987–1989.
[3] This date is January 16, 2001.

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25. In § 81.324, the table entitled ''Minnesota—Ozone (1–Hour Standard)'' is revised to read as follows:

§ 81.324 Minnesota.

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MINNESOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Minneapolis-Saint Paul Area:				
Anoka County	.....	Unclassifiable/Attainment		
Carver County	.....	Unclassifiable/Attainment		
Dakota County	.....	Unclassifiable/Attainment		
Hennepin County	.....	Unclassifiable/Attainment		
Ramsey County	.....	Unclassifiable/Attainment		
Scott County	.....	Unclassifiable/Attainment		
Washington County	.....	Unclassifiable/Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Aitkin County	.....	Unclassifiable/Attainment		
Becker County	.....	Unclassifiable/Attainment		
Beltrami County	.....	Unclassifiable/Attainment		
Benton County	.....	Unclassifiable/Attainment		
Big Stone County	.....	Unclassifiable/Attainment		
Blue Earth County	.....	Unclassifiable/Attainment		
Brown County	.....	Unclassifiable/Attainment		
Carlton County	.....	Unclassifiable/Attainment		
Cass County	.....	Unclassifiable/Attainment		
Chippewa County	.....	Unclassifiable/Attainment		
Chisago County	.....	Unclassifiable/Attainment		

MINNESOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Clay County		Unclassifiable/Attainment		
Clearwater County		Unclassifiable/Attainment		
Cook County		Unclassifiable/Attainment		
Cottonwood County		Unclassifiable/Attainment		
Crowe County		Unclassifiable/Attainment		
Dodge County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Faribault County		Unclassifiable/Attainment		
Fillmore County		Unclassifiable/Attainment		
Freeborn County		Unclassifiable/Attainment		
Goodhue County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Houston County		Unclassifiable/Attainment		
Hubbard County		Unclassifiable/Attainment		
Isanti County		Unclassifiable/Attainment		
Itasca County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Kanabec County		Unclassifiable/Attainment		
Kandiyohi County		Unclassifiable/Attainment		
Kittson County		Unclassifiable/Attainment		
Koochiching County		Unclassifiable/Attainment		
Lac qui Parle County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
Lake of the Woods County		Unclassifiable/Attainment		
Le Sueur County		Unclassifiable/Attainment		
Lincon County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Mahnomen County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
McLeod County		Unclassifiable/Attainment		
Meeker County		Unclassifiable/Attainment		
Mille Lacs County		Unclassifiable/Attainment		
Morrison County		Unclassifiable/Attainment		
Mower County		Unclassifiable/Attainment		
Murray County		Unclassifiable/Attainment		
Nicollet County		Unclassifiable/Attainment		
Nobles County		Unclassifiable/Attainment		
Norman County		Unclassifiable/Attainment		
Olmsted County		Unclassifiable/Attainment		
Otter Tail County		Unclassifiable/Attainment		
Pennington County		Unclassifiable/Attainment		
Pine County		Unclassifiable/Attainment		
Pipestone County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Pope County		Unclassifiable/Attainment		
Red Lake County		Unclassifiable/Attainment		
Redwood County		Unclassifiable/Attainment		
Renville County		Unclassifiable/Attainment		
Rice County		Unclassifiable/Attainment		
Rock County		Unclassifiable/Attainment		
Roseau County		Unclassifiable/Attainment		
Saint Louis County		Unclassifiable/Attainment		
Sherburne County		Unclassifiable/Attainment		
Sibley County		Unclassifiable/Attainment		
Stearns County		Unclassifiable/Attainment		
Steele County		Unclassifiable/Attainment		
Stevens County		Unclassifiable/Attainment		
Swift County		Unclassifiable/Attainment		
Todd County		Unclassifiable/Attainment		
Traverse County		Unclassifiable/Attainment		
Wabasha County		Unclassifiable/Attainment		
Wadena County		Unclassifiable/Attainment		
Waseca County		Unclassifiable/Attainment		
Watonwan County		Unclassifiable/Attainment		
Wilkin County		Unclassifiable/Attainment		
Winona County		Unclassifiable/Attainment		
Wright County		Unclassifiable/Attainment		
Yellow Medicine County		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

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26. In § 81.325, the table entitled ''Mississippi—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.325 Mississippi.

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MISSISSIPPI—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Memphis:				
De Soto County	11/15/90	Unclassifiable/Attainment	11/15/90	
Statewide	.....	Unclassifiable/Attainment		
Adams County				
Alcorn County				
Amite County				
Attala County				
Benton County				
Bolivar County				
Calhoun County				
Carroll County				
Chickasaw County				
Choctaw County				
Claiborne County				
Clarke County				
Clay County				
Coahoma County				
Copiah County				
Covington County				
Forrest County				
Franklin County				
George County				
Greene County				
Grenada County				
Hancock County				
Harrison County				
Hinds County				
Holmes County				
Humphreys County				
Issaquena County				
Itawamba County				
Jackson County				
Jasper County				
Jefferson County				
Jefferson Davis County				
Jones County				
Kemper County				
Lafayette County				
Lamar County				
Lauderdale County				
Lawrence County				
Leake County				
Lee County				
Leflore County				
Lincoln County				
Lowndes County				
Madison County				
Marion County				
Marshall County				
Monroe County				
Montgomery County				
Neshoba County				
Newton County				
Noxubee County				
Oktibbeha County				
Panola County				
Pearl River County				
Perry County				
Pike County				
Pontotoc County				
Prentiss County				
Quitman County				
Rankin County				
Scott County				
Sharkey County				
Simpson County				

MISSISSIPPI—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Smith County				
Stone County				
Sunflower County				
Tallahatchie County				
Tate County				
Tippah County				
Tishomingo County				
Tunica County				
Union County				
Walthall County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wilkinson County				
Winston County				
Yalobusha County				
Yazoo County				

[1] This date is October 18, 2000, unless otherwise noted.

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27. In § 81.326, the table entitled ''Missouri—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.326 Missouri.

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MISSOURI—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kansas City Area:.				
Clay County	7/23/92	Unclassifiable/Attainment		
Jackson County	7/23/92	Unclassifiable/Attainment		
Platte County	7/23/92	Unclassifiable/Attainment		
St. Louis Area:				
Franklin County	11/15/90	Nonattainment	11/15/90	Moderate.
Jefferson County	11/15/90	Nonattainment	11/15/90	Moderate.
St. Charles County	11/15/90	Nonattainment	11/15/90	Moderate.
St. Louis	11/15/90	Nonattainment	11/15/90	Moderate.
St. Louis County	11/15/90	Nonattainment	11/15/90	Moderate.
AQCR 094 Metro Kansas City Interstate (Remainder of).				
Buchanan County				
Cass County				
Ray County				
AQCR 137 N. Missouri Intrastate (part)				
Pike County	.....	Unclassifiable/Attainment		
Ralls County	.....	Unclassifiable/Attainment		
AQCR 137 N. Missouri Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Adair County				
Andrew County				
Atchison County				
Audrain County				
Boone County				
Caldwell County				
Callaway County				
Carroll County				
Chariton County				
Clark County				
Clinton County				
Cole County				
Cooper County				
Daviess County				
DeKalb County				
Gentry County				
Grundy County				
Harrison County				
Holt County				
Howard County				

MISSOURI—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Knox County				
Lewis County				
Lincoln County				
Linn County				
Livingston County				
Macon County				
Marion County				
Mercer County				
Moniteau County				
Monroe County				
Montgomery County				
Nodaway County				
Osage County				
Putnam County				
Randolph County				
Saline County				
Schuyler County				
Scotland County				
Shelby County				
Sullivan County				
Warren County				
Worth County				
Rest of State	.....	Unclassifiable/Attainment		
Barry County				
Barton County				
Bates County				
Benton County				
Bollinger County				
Butler County				
Camden County				
Cape Girardeau County				
Carter County				
Cedar County				
Christian County				
Crawford County				
Dade County				
Dallas County				
Dent County				
Douglas County				
Dunklin County				
Gasconade County				
Greene County				
Henry County				
Hickory County				
Howell County				
Iron County				
Jasper County				
Johnson County				
Laclede County				
Lafayette County				
Lawrence County				
Madison County				
Maries County				
McDonald County				
Miller County				
Mississippi County				
Morgan County				
New Madrid County				
Newton County				
Oregon County				
Ozark County				
Pemiscot County				
Perry County				
Pettis County				
Phelps County				
Polk County				
Pulaski County				
Reynolds County				
Ripley County				
Scott County				

MISSOURI—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Shannon County				
St.Clair County				
St. Francois County				
Ste. Genevieve County				
Stoddard County				
Stone County				
Taney County				
Texas County				
Vernon County				
Washington County				
Wayne County				
Webster County				
Wright County				

[1] This date is October 18, 2000, unless otherwise noted.

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28. In § 81327, the table entitled ''Montana—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.327 Montana

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MONTANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Beaverhead County	.....	Unclassifiable/Attainment		
Big Horn County (part) excluding Crow, Northern Cheyenne Indian Reservations.	.....	Unclassifiable/Attainment		
Blaine County (part) excluding Fort Belknap Indian Reservation				
Broadwater County	.....	Unclassifiable/Attainment		
Carbon County	.....	Unclassifiable/Attainment		
Carter County	.....	Unclassifiable/Attainment		
Cascade County	.....	Unclassifiable/Attainment		
Chouteau County (part) excluding Rocky Boy Indian Reservation.	.....	Unclassifiable/Attainment		
Custer County	.....	Unclassifiable/Attainment		
Daniels County (part) excluding Fort Peck Indian Reservation.	.....	Unclassifiable/Attainment		
Dawson County	.....	Unclassifiable/Attainment		
Deer Lodge County	.....	Unclassifiable/Attainment		
Fallon County	.....	Unclassifiable/Attainment		
Fergus County	.....	Unclassifiable/Attainment		
Flathead County (part) excluding Flathead Indian Reservation.	.....	Unclassifiable/Attainment		
Gallatin County	.....	Unclassifiable/Attainment		
Garfield County	.....	Unclassifiable/Attainment		
Glacier County (part) excluding Blackfeet Indian Reservation	.....	Unclassifiable/Attainment		
Golden Valley County	.....	Unclassifiable/Attainment		
Granite County	.....	Unclassifiable/Attainment		
Hill County (part) excluding Rocky Boy Indian Reservation ..	.....	Unclassifiable/Attainment		
Jefferson County	.....	Unclassifiable/Attainment		
Judith Basin County	.....	Unclassifiable/Attainment		
Lake County (part) excluding Flathead Indian Reservation ...	.....	Unclassifiable/Attainment		
Lewis and Clark County	.....	Unclassifiable/Attainment		
Liberty County	.....	Unclassifiable/Attainment		
Lincoln County	.....	Unclassifiable/Attainment		
Madison County	.....	Unclassifiable/Attainment		
McCone County	.....	Unclassifiable/Attainment		
Meagher County	.....	Unclassifiable/Attainment		
Mineral County	.....	Unclassifiable/Attainment		
Missoula County (part) excluding Flathead Indian Reservation.	.....	Unclassifiable/Attainment		
Musselshell County	.....	Unclassifiable/Attainment		
Park County	.....	Unclassifiable/Attainment		
Petroleum County	.....	Unclassifiable/Attainment		
Phillips County (part) excluding Fort Belknap Indian Reservation.	.....	Unclassifiable/Attainment		

MONTANA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Pondera County (part) excluding Blackfeet Indian Reservation.	.....	Unclassifiable/Attainment		
Powder River County	.....	Unclassifiable/Attainment		
Powell County	.....	Unclassifiable/Attainment		
Prairie County	.....	Unclassifiable/Attainment		
Ravalli County	.....	Unclassifiable/Attainment		
Richland County	.....	Unclassifiable/Attainment		
Roosevelt County (part) excluding Fort Peck Indian Reservation.	.....	Unclassifiable/Attainment		
Rosebud County (part) excluding Northern Cheyenne Indian Reservation.	.....	Unclassifiable/Attainment		
Sanders County (part) excluding Flathead Indian Reservation.	.....	Unclassifiable/Attainment		
Sheridan County (part) excluding Fort Peck Indian Reservation.	.....	Unclassifiable/Attainment		
Silver Bow County	.....	Unclassifiable/Attainment		
Stillwater County	.....	Unclassifiable/Attainment		
Sweet Grass County	.....	Unclassifiable/Attainment		
Teton County	.....	Unclassifiable/Attainment		
Toole County	.....	Unclassifiable/Attainment		
Treasure County	.....	Unclassifiable/Attainment		
Valley County (part) excluding Fort Peck Indian Reservation	.....	Unclassifiable/Attainment		
Wheatland County	.....	Unclassifiable/Attainment		
Wibaux County	.....	Unclassifiable/Attainment		
Yellowstone County (part) excluding Crow Indian Reservation.	.....	Unclassifiable/Attainment		
Yellowstone Natl Park	.....	Unclassifiable/Attainment		
Blackfeet Indian Reservation	.....	Unclassifiable/Attainment		
Glacier County (part) area inside Blackfeet Reservation				
Pondera County (part) area inside Blackfeet Reservation				
Crow Indian Reservation	.....	Unclassifiable/Attainment		
Bighorn County (part) area inside Crow Reservation				
Yellowstone (part) area inside Crow Reservation				
Flathead Indian Reservation	.....	Unclassifiable/Attainment		
Flathead County (part) area inside Flathead Reservation				
Lake County (part) area inside Flathead Reservation				
Missoula County (part) area inside Flathead Reservation				
Sanders County (part) area inside Flathead Reservation				
Fort Belknap Indian Reservation	.....	Unclassifiable/Attainment		
Blaine County (part) area inside Fort Belknap Reservation				
Phillips County (part) area inside Fort Belknap Reservation				
Fort Peck Indian Reservation	.....	Unclassifiable/Attainment		
Daniels County (part) area inside Fort Peck Reservation				
Roosevelt County (part) area inside Fort Peck Reservation				
Sheridan County (part) area inside Fort Peck Reservation				
Valley County (part) area inside Fort Peck Reservation				
Northern Cheyenne Indian Reservation	.....	Unclassifiable/Attainment		
Bighorn County (part) area inside Northern Cheyenne Reservation				
Rosebud County (part) area inside Northern Cheyenne Reservation				
Rocky Boy Indian Reservation	.....	Unclassifiable/Attainment		
Chouteau County (part) area inside Rocky Boy Reservation				
Hill County (part) area inside Rocky Boy Reservation				

[1] This date is October 18, 2000, unless otherwise noted.

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29. In § 81328, the table entitled ''Nebraska—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81328 Nebraska

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NEBRASKA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Adams County				
Antelope County				
Arthur County				
Banner County				
Blaine County				
Boone County				
Box Butte County				
Boyd County				
Brown County				
Buffalo County				
Burt County				
Butler County				
Cass County				
Cedar County				
Chase County				
Cherry County				
Cheyenne County				
Clay County				
Colfax County				
Cuming County				
Custer County				
Dakota County				
Dawes County				
Dawson County				
Deuel County				
Dixon County				
Dodge County				
Douglas County				
Dundy County				
Fillmore County				
Franklin County				
Frontier County				
Furnas County				
Gage County				
Garden County				
Garfield County				
Gosper County				
Grant County				
Greeley County				
Hall County				
Hamilton County				
Harlan County				
Hayes County				
Hitchcock County				
Holt County				
Hooker County				
Howard County				
Jefferson County				
Johnson County				
Kearney County				
Keith County				
Keya Paha County				
Kimball County				
Knox County				
Lancaster County				
Lincoln County				
Logan County				
Loup County				
Madison County				
McPherson County				
Merrick County				
Morrill County				
Nance County				
Nemaha County				
Nuckolls County				

NEBRASKA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Otoe County				
Pawnee County				
Perkins County				
Phelps County				
Pierce County				
Platte County				
Polk County				
Red Willow County				
Richardson County				
Rock County				
Saline County				
Sarpy County				
Saunders County				
Scotts Bluff County				
Seward County				
Sheridan County				
Sherman County				
Sioux County				
Stanton County				
Thayer County				
Thomas County				
Thurston County				
Valley County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
York County				

[1] This date is October 18, 2000, unless otherwise noted.

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30. In § 81.329, the table entitled ''Nevada—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.329 Nevada.

* * * * *

NEVADA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Reno Area:		.....		
Washoe County	([2])	Nonattainment	([2])	Marginal.
Rest of State		Unclassifiable/Attainment		
Carson City				
Churchill County				
Clark County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lincoln County				
Lyon County				
Mineral County				
Nye County				
Pershing County				
Storey County				
White Pine County				

[1] This date is October 18, 2000, unless otherwise noted.
[2] This date is January 16, 2000.

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31. In § 81.330, the table entitled ''New Hampshire—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.330 New Hampshire.

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NEW HAMPSHIRE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Belknap County Area:				
Belknap County		Unclassifiable/Attainment		
Boston-Lawrence-Worcester Area:				
Hillsborough County (part)	(1)	Nonattainment	(2)	Serious.
Pelham Town, Amherst Town, Brookline Town, Hollis Town, Hudson Town, Litchfield Town, Merrimack Town, Milford Town, Mont Vernon Town, Nashua City Wilton Town.				
Rockingham County (part)				
Atkinson Town, Brentwood Town, Danville Town, Derry Town, E. Kingston Town, Hampstead Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, Newton Town, Plaistow Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town Windham Town.	(2)	Nonattainment	(2)	Serious.
Cheshire County Area:				
Cheshire County	(2)	Nonattainment	(2)	Incomplete Data.
Manchester Area:				
Hillsborough County (part)	(2)	Nonattainment	(2)	Marginal.
Antrim Town, Bedford Town, Bennington Town, Deering Town, Francestown Town, Goffstown Town, Greenfield Town, Greenville Town, Hancock Town, Hillsborough Town, Lyndeborough Town, Manchester city, Mason Town, New Boston Town, New Ipswich Town, Petersborough Town, Sharon Town, Temple town, Weare Town, Windsor Town.				
Merrimack County	(2)	Nonattainment	(2)	Marginal.
Rockingham County (part)	(2)	Nonattainment	(2)	Marginal.
Auburn Town, Candia Town, Chester Town, Deerfield Town, Epping Town, Fremont Town, Northwood Town, Nottingham Town, Raymond Town.				
Portsmouth-Dover-Rochester Area:				
Rockingham County (part)	(2)	Nonattainment	(2)	Serious.
Exeter Town, Greenland Town, Hampton Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, North Hampton Town, Portsmouth city, Rye Town, Stratham Town.				
Strafford County	(2)	Nonattainment	(2)	Serious.
Sullivan County Area:				
Sullivan County		Unclassifiable/Attainment		
AQCR 107 Androscoggin Valley Interstate:				
Coos County		Unclassifiable/Attainment		
AQCR 149 Central New Hampshire Interstate:				
Carroll County		Unclassifiable/Attainment		
Grafton County		Unclassifiable/Attainment		

[1] This date is October 18, 2000 unless otherwise noted.
[2] This date is January 16, 2001.

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32. In § 81.331, the table entitled ''New Jersey—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.331 New Jersey.

* * * * *

NEW JERSEY—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allentown-Bethlehem Easton Area:				
Warren County	(2)	Nonattainment	(2)	Marginal.
Atlantic City Area:				
Atlantic County	(2)	Nonattainment	(2)	Moderate.
Cape May County	(2)	Nonattainment	(2)	Moderate.
New York-N. New Jersey-Long Island Area:				
Bergen County		Nonattainment		Severe-17.
Essex County		Nonattainment		Severe-17.
Hudson County		Nonattainment		Severe-17.

NEW JERSEY—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Hunterdon County		Nonattainment		Severe-17.
Middlesex County		Nonattainment		Severe-17.
Monmouth County		Nonattainment		Severe-17.
Morris County		Nonattainment		Severe-17.
Ocean County		Nonattainment		Severe-17.
Passaic County		Nonattainment		Severe-17.
Somerset County		Nonattainment		Severe-17.
Sussex County		Nonattainment		Severe-17.
Union County		Nonattainment		Severe-17.
Philadelphia-Wilmington-Trenton Area:				
Burlington County		Nonattainment		Severe-15.
Camden County		Nonattainment		Severe-15.
Cumberland County		Nonattainment		Severe-15.
Gloucester County		Nonattainment		Severe-15.
Mercer County		Nonattainment		Severe-15.
Salem County		Nonattainment		Severe-15.

[1] This date is November 15, 1990, unless otherwise noted.
[2] This date is January 16, 2001.

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33. In § 81.332, the table entitled ''New Mexico—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.332 New Mexico.

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NEW MEXICO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 012 New Mexico-Southern Border Intrastate		Unclassifiable/Attainment		
Grant County				
Hidalgo County				
Luna County				
AQCR 014 Four Corners Interstate		Unclassifiable/Attainment		
see 40 CFR 81.121				
McKinley County (part)				
Rio Arriba County (part)				
San Juan County				
Sandoval County (part)				
Valencia County (part)				
AQCR 152 Albuquerque-Mid Rio Grande Intrastate		Unclassifiable/Attainment		
Bernalillo County (part)				
AQCR 152 Albuquerque-Mid Rio Grande		Unclassifiable/Attainment		
Sandoval County (part) see 40 CFR 81.83				
Valencia County see 40 CFR 81.83				
AQCR 153 El Paso-Las Cruces-Alamogordo	7/12/95	Nonattainment	7/12/95	Marginal.
Dona Ana County (part)—(Sunland Park Area) The Area bounded by the New Mexico-Texas State line on the east, the New Mexico-Mexico international line on the south, the Range 3E-Range 2E line on the west, and the N3200 latitude line on the north.				
Remainder of Dona Ana County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Otero County		Unclassifiable/Attainment		
Sierra County		Unclassifiable/Attainment		
AQCR 154 Northeastern Plains Intrastate		Unclassifiable/Attainment		
Colfax County				
Guadalupe County				
Harding County				
Mora County				
San Miguel County				
Torrance County				
Union County				
AQCR 155 Pecos-Permian Basin Intrastate		Unclassifiable/Attainment		
Chaves County				

NEW MEXICO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Curry County				
De Baca County				
Eddy County				
Lea County				
Quay County				
Roosevelt County				
AQCR 156 SW Mountains-Augustine Plains		Unclassifiable/Attainment		
Catron County				
Cibola County				
McKinley County (part) see 40 CFR 81.241				
Socorro County				
Valencia County (part) see 40 CFR 81.241				
AQCR 157 Upper Rio Grande Valley Intrastate		Unclassifiable/Attainment		
Los Alamos County				
Rio Arriba County (part) see 40 CFR 81.239				
Santa Fe County				
Taos County				

[1] This date is October 18, 2000, unless otherwise noted.

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34. In § 81.333, the table entitled ''New York—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.333 New York.

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NEW YORK—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Albany-Schenectady-Troy Area:				
Albany County	(2)	Nonattainment	(2)	Marginal.
Greene County	(2)	Nonattainment	(2)	Marginal.
Montgomery County	(2)	Nonattainment	(2)	Marginal.
Rensselaer County	(2)	Nonattainment	(2)	Marginal.
Saratoga County	(2)	Nonattainment	(2)	Marginal.
Schenectady County	(2)	Nonattainment	(2)	Marginal.
Buffalo-Niagara Falls Area:				
Erie County	(2)	Nonattainment	(2)	Marginal.
Niagara County	(2)	Nonattainment	(2)	Marginal.
Essex County Area:				
Essex County (part) The portion of Whiteface Mountain above 4500 feet in elevation in Essex County.	(2)	Nonattainment	(2)	Rural Transport (Marginal).
Jefferson County Area:				
Jefferson County	(2)	Nonattainment	(2)	Marginal.
New York-Northern New Jersey-Long Island Area:				
Bronx County	11/15/90	Nonattainment	11/15/90	Severe-17.
Kings County	11/15/90	Nonattainment	11/15/90	Severe-17.
Nassau County	11/15/90	Nonattainment	11/15/90	Severe-17.
New York County	11/15/90	Nonattainment	11/15/90	Severe-17.
Orange County (part) Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury.	1/15/92	Nonattainment	1/15/92	Severe-17.
Queens County	11/15/90	Nonattainment	11/15/90	Severe-17.
Richmond County	11/15/90	Nonattainment	11/15/90	Severe-17.
Rockland County	11/15/90	Nonattainment	11/15/90	Severe-17.
Suffolk County	11/15/90	Nonattainment	11/15/90	Severe-17.
Westchester County	11/15/90	Nonattainment	11/15/90	Severe-17.
Poughkeepsie Area:				
Dutchess County	(2)	Nonattainment	(2)	Moderate.
Orange County (remainder)	(2)	Nonattainment	(2)	Moderate.
Putnam County	(2)	Nonattainment	(2)	Moderate.
AQCR 158 Central New York Intrastate (Remainder of)		Unclassifiable/Attainment		
Cayuga County				
Cortland County				
Herkimer County				
Lewis County				
Madison County				
Oneida County				
Onondaga County				

NEW YORK—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Oswego County				
AQCR 159 Champlain Valley Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Clinton County				
Franklin County				
Hamilton County				
St. Lawrence County				
Warren County				
Washington County				
AQCR 160 Genessee-Finger Lakes Intrastate	.....	Unclassifiable/Attainment		
Genessee County				
Livingston County				
Monroe County				
Ontario County				
Orleans County				
Seneca County				
Wayne County				
Wyoming County				
Yates County				
AQCR 161 Hudson Valley Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Columbia County				
Fulton County				
Schoharie County				
Ulster County				
AQCR 163 Southern Tier East Intrastate	.....	Unclassifiable/Attainment		
Broome County				
Chenango County				
Delaware County				
Otsego County				
Sullivan County				
Tioga County				
AQCR 164 Southern Tier West Intrastate	.....	Unclassifiable/Attainment		
Allegany County				
Cattaraugus County				
Chautauqua County				
Chemung County				
Schuyler County				
Steuben County				
Tompkins County				

[1] This date is October 18, 2000, unless otherwise noted.
[2] This date is January 16, 2001.

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35. In § 81.334, the table entitled ''North Carolina—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.334 North Carolina.

* * * * *

NORTH CAROLINA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Alamance County				
Alexander County				
Alleghany County				
Anson County				
Ashe County				
Avery County				
Beaufort County				
Bertie County				
Bladen County				
Brunswick County				
Buncombe County				
Burke County				
Cabarrus County				
Caldwell County				
Camden County				
Carteret County				

NORTH CAROLINA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Caswell County				
Catawba County				
Chatham County				
Cherokee County				
Chowan County				
Clay County				
Cleveland County				
Columbus County				
Craven County				
Cumberland County				
Currituck County				
Dare County				
Davidson County				
Davie County				
Durham County				
Duplin County				
Edgecombe County				
Forsyth County				
Franklin County				
Gaston County				
Gates County				
Graham County				
Granville County				
Greene County				
Guilford County				
Halifax County				
Harnett County				
Haywood County				
Henderson County				
Hertford County				
Hoke County				
Hyde County				
Iredell County				
Jackson County				
Johnston County				
Jones County				
Lee County				
Lenoir County				
Lincoln County				
McDowell County				
Macon County				
Madison County				
Martin County				
Mecklenburg County				
Mitchell County				
Montgomery County				
Moore County				
Nash County				
New Hanover County				
Northhampton County				
Onslow County				
Orange County				
Pamlico County				
Pasquotank County				
Pender County				
Perquimans County				
Person County				
Pitt County				
Polk County				
Randolph County				
Richmond County				
Robeson County				
Rockingham County				
Rowan County				
Rutherford County				
Sampson County				
Scotland County				
Stanly County				
Stokes County				
Surry County				

NORTH CAROLINA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Swain County				
Transylvania County				
Tyrrell County				
Union County				
Vance County				
Wake County				
Warren County				
Washington County				
Watauga County				
Wayne County				
Wilkes County				
Wilson County				
Yadkin County				
Yancey County				

[1] This date is October 18, 2000, unless otherwise noted.

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36. In § 81.335, the table entitled ''North Dakota—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.335 North Dakota.

* * * * *

NORTH DAKOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 130 Metropolitan Fargo-Moorhead Interstate.				
Cass County	.....	Unclassifiable/Attainment		
Rest of State, AQCR 172	.....	Unclassifiable/Attainment		
Adams County				
Barnes County				
Benson County				
Billings County				
Bottineau County				
Bowman County				
Burke County				
Burleigh County				
Cavalier County				
Dickey County				
Divide County				
Dunn County				
Eddy County				
Emmons County				
Foster County				
Golden Valley County				
Grand Forks County				
Grant County				
Griggs County				
Hettinger County				
Kidder County				
La Moure County				
Logan County				
McHenry County				
McIntosh County				
McKenzie County				
McLean County				
Mercer County				
Morton County				
Mountrail County				
Nelson County				
Oliver County				
Pembina County				
Pierce County				
Ramsey County				
Ransom County				
Renville County				
Richland County				
Rolette County				

NORTH DAKOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Sargent County				
Sheridan County				
Sioux County				
Slope County				
Stark County				
Steele County				
Stutsman County				
Towner County				
Traill County				
Walsh County				
Ward County				
Wells County				
Williams County				

[1] This date is October 18, 2000, unless otherwise noted.

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37. In § 81.336, the table entitled ''Ohio—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Canton Area:				
Stark County	.....	Attainment		
Cincinnati-Hamilton Area:				
Butler County	7/5/00	Attainment		
Clermont County	7/5/00	Attainment		
Hamilton County	7/5/00	Attainment		
Warren County	7/5/00	Attainment		
Cleveland-Akron-Lorain Area:	.....	Attainment		
Ashtabula County				
Cuyahoga County				
Geauga County				
Lake County				
Lorain County				
Medina County				
Portage County				
Summit County				
Clinton County Area:				
Clinton County	.....	Attainment		
Columbiana County Area:				
Columbiana County	.....	Attainment		
Columbus Area:				
Delaware County	.....	Attainment		
Franklin County	.....	Attainment		
Licking County	.....	Attainment		
Dayton-Springfield Area:				
Clark County	.....	Attainment		
Greene County	.....	Attainment		
Miami County	.....	Attainment		
Montgomery County	.....	Attainment		
Preble County Area:				
Preble County	.....	Attainment		
Steubenville Area:				
Jefferson County	.....	Attainment		
Toledo Area:				
Lucas County	.....	Attainment		
Wood County	.....	Attainment		
Youngstown-Warren-Sharon Area:				
Mahoning County	.....	Attainment		
Trumbull County	.....	Attainment		
Adams County	.....	Unclassifiable/Attainment		
Allen County	.....	Unclassifiable/Attainment		
Ashland County	.....	Unclassifiable/Attainment		
Athens County	.....	Unclassifiable/Attainment		

OHIO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Auglaize County		Unclassifiable/Attainment		
Belmont County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Coshocton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Darke County		Unclassifiable/Attainment		
Defiance County		Unclassifiable/Attainment		
Erie County		Unclassifiable/Attainment		
Fairfield County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallia County		Unclassifiable/Attainment		
Guernsey County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Highland County		Unclassifiable/Attainment		
Hocking County		Unclassifiable/Attainment		
Holmes County		Unclassifiable/Attainment		
Huron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Meigs County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Morrow County		Unclassifiable/Attainment		
Muskingum County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Paulding County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pickaway County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Ross County		Unclassifiable/Attainment		
Sandusky County		Unclassifiable/Attainment		
Scioto County		Unclassifiable/Attainment		
Seneca County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Tuscarawas County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Van Wert County		Unclassifiable/Attainment		
Vinton County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Williams County		Unclassifiable/Attainment		
Wyandot County		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date extended to November 15, 1998.

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38. In § 81.337, the table entitled ''Oklahoma—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.337 Oklahoma.

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OKLAHOMA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 017 Metropolitan Fort Smith Interstate	.....	Unclassifiable/Attainment		
Adair County				
Cherokee County				
Le Flore County				
Sequoyah County				
AQCR 022 Shreveport-Texarkana-Tyler Intrastate	.....	Unclassifiable/Attainment		
McCurtain County				
AQCR 184 Central Oklahoma Intrastate (part).				
Cleveland County	.....	Unclassifiable/Attainment		
Oklahoma County	.....	Unclassifiable/Attainment		
AQCR 184 Central Oklahoma Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Canadian County				
Grady County				
Kingfisher County				
Lincoln County				
Logan County				
McClain County				
Pottawatomie County				
AQCR 185 North Central Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Garfield County				
Grant County				
Kay County				
Noble County				
Payne County				
AQCR 186 Northeastern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Craig County				
Creek County				
Delaware County				
Mayes County				
Muskogee County				
Nowata County				
Okmulgee County				
Osage County				
Ottawa County				
Pawnee County				
Rogers County				
Tulsa County				
Wagoner County				
Washington County				
AQCR 187 Northwestern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Alfalfa County				
Beaver County				
Blaine County				
Cimarron County				
Custer County				
Dewey County				
Ellis County				
Harper County				
Major County				
Roger Mills County				
Texas County				
Woods County				
Woodward County				
AQCR 188 Southeastern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Atoka County				
Bryan County				
Carter County				
Choctaw County				
Coal County				
Garvin County				
Haskell County				
Hughes County				
Johnston County				
Latimer County				
Love County				
Marshall County				
McIntosh County				
Murray County				
Okfuskee County				
Pittsburg County				

OKLAHOMA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Pontotoc County				
Pushmataha County				
Seminole County				
AQCR 189 Southwestern Oklahoma Intrastate	.....	Unclassifiable/Attainment		
Beckham County				
Caddo County				
Comanche County				
Cotton County				
Greer County				
Harmon County				
Jackson County				
Jefferson County				
Kiowa County				
Stephens County				
Tillman County				
Washita County				

[1] This date is October 18, 2000, unless otherwise noted.

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39. In § 81.338, the table entitled ''Oregon—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.338 Oregon.

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OREGON—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Portland-Vancouver AQMA Area:	.....	Attainment		
Air Quality Maintenance Area				
Clackamas County (part)				
Multnomah County (part)				
Washington County (part)				
Salem Area:				
Salem Area Transportation Study				
Marion County (part)	([2])	Nonattainment	([2])	Incomplete Data.
Polk County	([2])	Nonattainment	([2])	Incomplete Data.
AQCR 190 Central Oregon Intrastate (Remainder of)	.....	Unclassifiable/Attainment.		
Crook County				
Deschutes County				
Hood River County				
Jefferson County				
Klamath County				
Lake County				
Sherman County				
Wasco County				
AQCR 191 Eastern Oregon Intrastate	.....	Unclassifiable/Attainment		
Baker County				
Gilliam County				
Grant County				
Harney County				
Malheur County				
Morrow County				
Umatilla County				
Union County				
Wallowa County				
Wheeler County				
AQCR 192 Northwest Oregon Intrastate	.....	Unclassifiable/Attainment		
Clatsop County				
Lincoln County				
Tillamook County				
AQCR 193 Portland Interstate (part)	.....	Unclassifiable/Attainment		
Lane County (part) Eugene Springfield Air Quality Maintenance Area				
AQCR 193 Portland Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Benton County				
Clackamas County (part) Remainder of county				
Columbia County				

OREGON—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Lane County (part) Remainder of county				
Linn County				
Marion County (part) area outside the Salem Area Transportation Study				
Multnomah County (part) Remainder of county				
Polk County (part) area outside the Salem Area Transportation Study				
Washington County (part) Remainder of county				
Yamhill County				
AQCR 194 Southwest Oregon Intrastate (part)				
Jackson County (part)				
Medford-Ashland Air Quality Maintenance Area	.....	Unclassifiable/Attainment		
AQCR 194 Southwest Oregon Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Coos County				
Curry County				
Douglas County				
Jackson County (part) Remainder of county				
Josephine County				

[1] This date is October 18, 2000, unless otherwise noted.
[2] This date is January 16, 2001.

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40. In § 81.339, the table entitled ''Pennsylvania—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.339 Pennsylvania.

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PENNSYLVANIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allentown-Bethlehem-Easton Area:				
Carbon County	([3])	Nonattainment	([3])	Marginal.
Lehigh County	([3])	Nonattainment	([3])	Marginal.
Northampton County	([3])	Nonattainment	([3])	Marginal.
Altoona Area:				
Blair County	([3])	Nonattainment	([3])	Marginal.
Crawford County Area:				
Crawford County	([3])	Nonattainment	([3])	Incomplete Data.
Erie Area:				
Erie County	([3])	Nonattainment	([3])	Marginal.
Franklin County Area:				
Franklin County	([3])	Nonattainment	([3])	Incomplete Data.
Greene County Area:				
Greene County	([3])	Nonattainment	([3])	Incomplete Data.
Harrisburg-Lebanon-Carlisle Area:				
Cumberland County	([3])	Nonattainment	([3])	Marginal.
Dauphin County	([3])	Nonattainment	([3])	Marginal.
Lebanon County	([3])	Nonattainment	([3])	Marginal.
Perry County	([3])	Nonattainment	([3])	Marginal.
Johnstown Area:				
Cambria County	([3])	Nonattainment	([3])	Marginal.
Somerset County	([3])	Nonattainment	([3])	Marginal.
Juniata County Area:				
Juniata County	([3])	Nonattainment	([3])	Incomplete Data.
Lancaster Area:				
Lancaster County	11/15/90	Nonattainment	11/15/90	Marginal.
Lawrence County Area:				
Lawrence County	([3])	Nonattainment	([3])	Incomplete Data.
Northumberland County Area:				
Northumberland County	([3])	Nonattainment	([3])	Incomplete Data.
Philadelphia-Wilmington-Trenton Area:				
Bucks County	11/15/90	Nonattainment	11/15/90	Severe-15.
Chester County	11/15/90	Nonattainment	11/15/90	Severe-15.
Delaware County	11/15/90	Nonattainment	11/15/90	Severe-15.
Montgomery County	11/15/90	Nonattainment	11/15/90	Severe-15.
Philadelphia County	11/15/90	Nonattainment	11/15/90	Severe-15.

PENNSYLVANIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Pike County Area:				
Pike County	([3])	Nonattainment	([3])	Incomplete Data.
Pittsburgh-Beaver Valley Area:				
Allegheny County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Armstrong County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Beaver County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Butler County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Fayette County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Washington County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Westmoreland County	11/15/90	Nonattainment	11/15/90	Moderate [2].
Reading Area:				
Berks County	.....	Unclassifiable/Attainment		
Schuylkill County Area:				
Schuylkill County	([3])	Nonattainment	([3])	Incomplete Data.
Scranton-Wilkes-Barre Area:				
Columbia County	([3])	Nonattainment	([3])	Marginal.
Lackawanna County	([3])	Nonattainment	([3])	Marginal.
Luzerne County	([3])	Nonattainment	([3])	Marginal.
Monroe County	([3])	Nonattainment	([3])	Marginal.
Wyoming County	([3])	Nonattainment	([3])	Marginal.
Snyder County Area:				
Snyder County	([3])	Nonattainment	([3])	Incomplete Data.
Susquehanna County Area:				
Susquehanna County	([3])	Nonattainment	([3])	Incomplete Data.
Warren County Area:				
Warren County	([3])	Nonattainment	([3])	Incomplete Data.
Wayne County Area:				
Wayne County	([3])	Nonattainment	([3])	Incomplete Data.
York Area:				
Adams County	([3])	Nonattainment	([3])	Marginal.
York County	([3])	Nonattainment	([3])	Marginal.
Youngstown-Warren-Sharon Area:				
Mercer County	([3])	Nonattainment	([3])	Marginal.
AQCR 151 NE Pennsylvania Intrastate (Remainder of):				
Bradford County	.....	Unclassifiable/Attainment		
Sullivan County	.....	Unclassifiable/Attainment		
Tioga County	.....	Unclassifiable/Attainment		
AQCR 178 NW Pennsylvania Interstate (Remainder of):				
Cameron County	.....	Unclassifiable/Attainment		
Clarion County	.....	Unclassifiable/Attainment		
Clearfield County	.....	Unclassifiable/Attainment		
Elk County	.....	Unclassifiable/Attainment		
Forest County	.....	Unclassifiable/Attainment		
Jefferson County	.....	Unclassifiable/Attainment		
McKean County	.....	Unclassifiable/Attainment		
Potter County	.....	Unclassifiable/Attainment		
Venango County	.....	Unclassifiable/Attainment		
AQCR 195 Central Pennsylvania Intrastate (Remainder of):				
Bedford County	.....	Unclassifiable/Attainment		
Centre County	.....	Unclassifiable/Attainment		
Clinton County	.....	Unclassifiable/Attainment		
Fulton County	.....	Unclassifiable/Attainment		
Huntingdon County	.....	Unclassifiable/Attainment		
Lycoming County	.....	Unclassifiable/Attainment		
Mifflin County	.....	Unclassifiable/Attainment		
Montour County	.....	Unclassifiable/Attainment		
Union County	.....	Unclassifiable/Attainment		
AQCR 197 SW Pennsylvania Intrastate (Remainder of):				
Indiana County	.....	Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date extended to 11/15/97.
[3] This date is January 16, 2001.

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41. In § 81.340, the table entitled ''Rhode Island—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.340 Rhode Island.

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RHODE ISLAND—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Providence (all of RI) Area:				
Bristol County		Nonattainment		Serious.
Kent County		Nonattainment		Serious.
Newport County		Nonattainment		Serious.
Providence County		Nonattainment		Serious.
Washington County		Nonattainment		Serious.

[1] This date is January 16, 2001, unless otherwise noted.

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42. In § 81.341, the table entitled ''South Carolina—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.341 South Carolina.

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SOUTH CAROLINA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Abbeville County				
Aiken County				
Allendale County				
Anderson County				
Bamberg County				
Barnwell County				
Beaufort County				
Berkeley County				
Calhoun County				
Charleston County				
Cherokee County				
Chester County				
Chesterfield County				
Clarendon County				
Colleton County				
Darlington County				
Dillon County				
Dorchester County				
Edgefield County				
Fairfield County				
Florence County				
Georgetown County				
Greenville County				
Greenwood County				
Hampton County				
Horry County				
Jasper County				
Kershaw County				
Lancaster County				
Laurens County				
Lee County				
Lexington County				
Marion County				
Marlboro County				
McCormick County				
Newberry County				
Oconee County				
Orangeburg County				
Pickens County				
Richland County				
Saluda County				
Spartanburg County				
Sumter County				
Union County				
Williamsburg County				
York County				

[1] This date is October 18, 2000, unless otherwise noted.

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43. In § 81.342, the table entitled ''South Dakota—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.342 South Dakota.

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SOUTH DAKOTA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide	.....	Unclassifiable/Attainment		
Aurora County				
Beadle County				
Bennett County				
Bon Homme County				
Brookings County				
Brown County				
Brule County				
Buffalo County				
Butte County				
Campbell County				
Charles Mix County				
Clark County				
Clay County				
Codington County				
Corson County				
Custer County				
Davison County				
Day County				
Deuel County				
Dewey County				
Douglas County				
Edmunds County				
Fall River County				
Faulk County				
Grant County				
Gregory County				
Haakon County				
Hamlin County				
Hand County				
Hanson County				
Harding County				
Hughes County				
Hutchinson County				
Hyde County				
Jackson County				
Jerauld County				
Jones County				
Kingsbury County				
Lake County				
Lawrence County				
Lincoln County				
Lyman County				
Marshall County				
McCook County				
McPherson County				
Meade County				
Mellette County				
Miner County				
Minnehaha County				
Moody County				
Pennington County				
Perkins County				
Potter County				
Roberts County				
Sanborn County				
Shannon County				
Spink County				
Stanley County				
Sully County				
Todd County				
Tripp County				
Turner County				
Union County				
Walworth County				
Yankton County				

SOUTH DAKOTA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Ziebach County				

[1] This date is October 18, 2000, unless otherwise noted.

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44. In § 81.343, the table entitled ''Tennessee—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.343 Tennessee.

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TENNESSEE—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Jefferson County Area:				
Jefferson County	11/15/90	Unclassifiable/Attainment	11/15/90	
Statewide	.....	Unclassifiable/Attainment.		
Anderson County				
Bedford County				
Benton County				
Bledsoe County				
Blount County				
Bradley County				
Campbell County				
Cannon County				
Carroll County				
Carter County				
Cheatham County				
Chester County				
Claiborne County				
Clay County				
Cocke County				
Coffee County				
Crockett County				
Cumberland County				
DeKalb County				
Decatur County				
Dickson County				
Davidson County				
Dyer County				
Fayette County				
Fentress County				
Franklin County				
Gibson County				
Giles County				
Grainger County				
Greene County				
Grundy County				
Hamblen County				
Hamilton County				
Hancock County				
Hardeman County				
Hardin County				
Hawkins County				
Haywood County				
Henderson County				
Henry County				
Hickman County				
Houston County				
Humphreys County				
Jackson County				
Johnson County				
Knox County				
Lake County				
Lauderdale County				
Lawrence County				
Lewis County				
Lincoln County				
Loudon County				

TENNESSEE—OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Macon County				
Madison County				
Marion County				
Marshall County				
Maury County				
McMinn County				
McNairy County				
Meigs County				
Monroe County				
Montgomery County				
Moore County				
Morgan County				
Obion County				
Overton County				
Perry County				
Pickett County				
Polk County				
Putnam County				
Rhea County				
Roane County				
Robertson County				
Rutherford County				
Scott County				
Sequatchie County				
Sevier County				
Shelby County				
Smith County				
Stewart County				
Sullivan County				
Sumner County				
Tipton County				
Trousdale County				
Unicoi County				
Union County				
Van Buren County				
Warren County				
Washington County				
Wayne County				
Weakley County				
White County				
Williamson County				
Wilson County				

[1] This date is October 18, 2000, unless otherwise noted.

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45. In § 81.344, the table entitled ''Texas—Ozone (1–Hour Standard)'' is revised to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Beaumont/Port Arthur Area:				
Hardin County	11/15/90	Nonattainment	6/03/96	Moderate.
Jefferson County	11/15/90	Nonattainment	6/03/96	Moderate.
Orange County	11/15/90	Nonattainment	6/03/96	Moderate.
Dallas-Fort Worth Area:				
Collin County	11/15/90	Nonattainment	3/20/98	Serious.
Dallas County	11/15/90	Nonattainment	3/20/98	Serious.
Denton County	11/15/90	Nonattainment	3/20/98	Serious.
Tarrant County	11/15/90	Nonattainment	3/20/98	Serious.
El Paso Area:.				
El Paso County	11/15/90	Nonattainment	11/15/90	Serious.
Houston-Galveston-Brazoria Area:				
Brazoria County	11/15/90	Nonattainment	11/15/90	Severe-17.
Chambers County	11/15/90	Nonattainment	11/15/90	Severe-17.

TEXAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Fort Bend County	11/15/90	Nonattainment	11/15/90	Severe-17.
Galveston County	11/15/90	Nonattainment	11/15/90	Severe-17.
Harris County	11/15/90	Nonattainment	11/15/90	Severe-17.
Liberty County	11/15/90	Nonattainment	11/15/90	Severe-17.
Montgomery County	11/15/90	Nonattainment	11/15/90	Severe-17.
Waller County	11/15/90	Nonattainment	11/15/90	Severe-17.
Longview Area:				
Gregg County	11/15/90	Unclassifiable/Attainment	11/15/90	
Victoria Area:				
Victoria County	.....	Attainment		
AQCR 022 Shreveport-Texarkana-Tyler Interstate	.....	Unclassifiable/Attainment		
Anderson County				
Bowie County				
Camp County				
Cass County				
Cherokee County				
Delta County				
Franklin County				
Gregg County				
Harrison County				
Henderson County				
Hopkins County				
Lamar County				
Marion County				
Morris County				
Panola County				
Rains County				
Red River County				
Rusk County				
Smith County				
Titus County				
Upshur County				
Van Zandt County				
Wood County				
AQCR 106 S Louisiana-SE Texas Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Angelina County, Houston County, Jasper County, Nacogdoches County, Newton County, Polk County, Sabine County, San Augustine County, San Jacinto County, Shelby County, Trinity County, Tyler County				
AQCR 153 El Paso-Las Cruces-Alamogordo Interstate	.....	Unclassifiable/Attainment		
Brewster County				
Culberson County				
Hudspeth County				
Jeff Davis County				
Presidio County				
AQCR 210 Abilene-Wichita Falls Intrastate	.....	Unclassifiable/Attainment		
Archer County, Baylor County, Brown County, Callahan County, Clay County, Coleman County, Comanche County, Cottle County, Eastland County, Fisher County, Foard County, Hardeman County, Haskell County, Jack County, Jones County, Kent County, Knox County, Mitchell County, Montague County, Nolan County, Runnels County, Scurry County, Shackelford County, Stephens County, Stonewall County, Taylor County, Throckmorton County, Wichita County, Wilbarger County, Young County				
AQCR 211 Amarillo-Lubbock Intrastate	.....	Unclassifiable/Attainment		
Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Childress County, Cochran County, Collingsworth County, Crosby County, Dallam County, Deaf Smith County, Dickens				

TEXAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
County, Donley County, Floyd				
County, Garza County, Gray County,				
Hale County, Hall County, Hansford				
County, Hartley County, Hemphill				
County, Hockley County, Hutchinson				
County, King County, Lamb County,				
Lipscomb County, Lubbock County,				
Lynn County, Moore County, Motley				
County, Ochiltree County, Oldham				
County, Parmer County, Potter				
County, Randall County, Roberts				
County, Sherman County, Swisher				
County, Terry County, Wheeler				
County, Yoakum County				
AQCR 212 Austin-Waco Intrastate	.....	Unclassifiable/Attainment		
Bastrop County				
Bell County				
Blanco County				
Bosque County				
Brazos County				
Burleson County				
Burnet County				
Caldwell County				
Coryell County				
Falls County				
Fayette County				
Freestone County				
Grimes County				
Hamilton County				
Hays County				
Hill County				
Lampasas County				
Lee County				
Leon County				
Limestone County				
Llano County				
Madison County				
McLennan County				
Milam County				
Mills County				
Robertson County				
San Saba County				
Travis County				
Washington County				
Williamson County				
AQCR 213 Brownsville-Laredo Intrastate	.....	Unclassifiable/Attainment		
Cameron County				
Hidalgo County				
Jim Hogg County				
Starr County				
Webb County				
Willacy County				
Zapata County				
AQCR 214 Corpus Christi-Victoria Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Aransas County, Bee County, Brooks				
County, Calhoun County, De Witt				
County, Duval County, Goliad				
County, Gonzales County, Jackson				
County, Jim Wells County, Kenedy				
County, Kleberg County, Lavaca				
County, Live Oak County, McMullen				
County, Refugio County, San				
Patricio County,				
AQCR 214 Corpus Christi-Victoria Intrastate (part)	.....	Unclassifiable/Attainment		
Nueces County				
AQCR 215 Metro Dallas-Fort Worth Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Cooke County				
Ellis County				
Erath County				

TEXAS—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Fannin County				
Grayson County				
Hood County				
Hunt County				
Johnson County				
Kaufman County				
Navarro County				
Palo Pinto County				
Parker County				
Rockwall County				
Somervell County				
Wise County				
AQCR 216 Metro Houston-Galveston Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Austin County, Colorado County, Matagorda County, Walker County, Wharton County				
AQCR 217 Metro San Antonio Intrastate (part)	.....	Unclassifiable/Attainment		
Bexar County				
AQCR 217 Metro San Antonio Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Atascosa County, Bandera County, Comal County, Dimmit County, Edwards County, Frio County, Gillespie County, Guadalupe County, Karnes County, Kendall County, Kerr County, Kinney County, La Salle County, Maverick County, Medina County, Real County, Uvalde County, Val Verde County, Wilson County, Zavala County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (part)	.....	Unclassifiable/Attainment		
Ector County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Andrews County, Borden County, Coke County, Concho County, Crane County, Crockett County, Dawson County, Gaines County, Glasscock County, Howard County, Irion County, Kimble County, Loving County, Martin County, Mason County, McCulloch County, Menard County, Midland County, Pecos County, Reagan County, Reeves County, Schleicher County, Sterling County, Sutton County, Terrell County, Tom Green County, Upton County, Ward County, Winkler County				

[1] This date is October 18, 2000, unless otherwise noted.

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46. In § 81.345, the table entitled ''Utah—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.345 Utah.

* * * * *

UTAH—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Salt Lake City Area:				
Davis County	.....	Attainment		
Salt Lake County	.....	Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Beaver County				
Box Elder County				
Cache County				
Carbon County				

UTAH—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Daggett County				
Duchesne County				
Emery County				
Garfield County				
Grand County				
Iron County				
Juab County				
Kane County				
Millard County				
Morgan County				
Piute County				
Rich County				
San Juan County				
Sanpete County				
Sevier County				
Summit County				
Tooele County				
Uintah County				
Utah County				
Wasatch County				
Washington County				
Wayne County				
Weber County				

[1] This date is October 18, 2000, unless otherwise noted.

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47. In § 81.346, the table entitled ''Vermont—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.346 Vermont.

* * * * *

VERMONT—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 159 Champlain Calley Interstate (part)				
Addison County Unclassifiable	.....	Unclassifiable/Attainment		
Chittenden County	.....	Unclassifiable/Attainment		
AQCR 159 Champlain Calley Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Franklin County				
Grand Isle County				
Rutland County				
AQCR 221 Vermont Intrastate (part)	.....	Unclassifiable/Attainment		
Windsor County				
AQCR 221 Vermont Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
Bennington County				
Caledonia County				
Essex County				
Lamoille County				
Orange County				
Orleans County				
Washington County				
Windham County				

[1] This date is October 18, 2000, unless otherwise noted.

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48. In § 81.347, the table entitled ''Virginia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Norfolk-Virginia-Beach Newport News (Hampton Roads) Area.				
Chesapeake	.....	Attainment		
Hampton	.....	Attainment		
James City County	.....	Attainment		
Newport News	.....	Attainment		
Norfolk	.....	Attainment		
Poquoson	.....	Attainment		
Portsmouth	.....	Attainment		
Suffolk	.....	Attainment		
Virginia Beach	.....	Attainment		
Williamsburg	.....	Attainment		
York County	.....	Attainment		
Richmond Area:				
Charles City County (part) Beginning at the intersection of State Route 156 and the Henrico/Charles City County Line, proceeding south along State Route 5/156 to the intersection with State Route 106/ 156, proceeding south along Route 106/156 to the intersection with the Prince George/Charles City County line, proceeding west along the Prince George/Charles City County line to the intersection with the Chesterfield/Charles City County line, proceeding north along the Chesterfield/Charles City County line to the intersection with the Henrico/Charles City County line, proceeding north along the Henrico/ Charles City County line to State Route 156..	.....	Attainment		
Chesterfield County	.....	Attainment		
Colonial Heights	.....	Attainment		
Hanover County	.....	Attainment		
Henrico County	.....	Attainment		
Hopewell	.....	Attainment		
Richmond	.....	Attainment		
Smyth County Area:				
Smyth County (part) The portion of White Top Mountain above the 4,500 foot elevation in Smyth County..	([2])	Nonattainment	([2])	Rural transport (Marginal).
Washington Area:				
Alexandria	11/15/90	Nonattainment	11/15/90	Serious.
Arlington County	11/15/90	Nonattainment	11/15/90	Serious.
Fairfax	11/15/90	Nonattainment	11/15/90	Serious.
Fairfax County	11/15/90	Nonattainment	11/15/90	Serious.
Falls Church	11/15/90	Nonattainment	11/15/90	Serious.
Loudoun County	11/15/90	Nonattainment	11/15/90	Serious.
Manassas	11/15/90	Nonattainment	11/15/90	Serious.
Manassas Park	11/15/90	Nonattainment	11/15/90	Serious.
Prince William County	11/15/90	Nonattainment	11/15/90	Serious.
Stafford County	11/15/90	Nonattainment	11/15/90	Serious.
AQCR 207 Eastern Tennessee—SW Virginia Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Bland County				
Bristol				
Buchanan County				
Carroll County				
Dickenson County				
Galax				
Grayson County				
Lee County				
Norton				
Russell County				
Scott County				
Smyth County (part) Remainder of county				
Tazewell County				
Washington County				
Wise County				
Wythe County				
AQCR 222 Central Virginia Intrastate	.....	Unclassifiable/Attainment		
Amelia County				
Amherst County				
Appomattox County				
Bedford				
Bedford County				
Brunswick County				

VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designation area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Buckingham County				
Campbell County				
Charlotte County				
Cumberland County				
Danville				
Franklin County				
Halifax County				
Henry County				
Lunenburg County				
Lynchburg				
Martinsville				
Mecklenburg County				
Nottoway County				
Patrick County				
Pittsylvania County				
Prince Edward County				
South Boston				
AQCR 223 Hampton Roads Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Franklin				
Isle Of Wight County				
Southampton County				
AQCR 224 NE Virginia Intrastate (Remainder of).	.....	Unclassifiable/Attainment		
Accomack County				
Albemarle County				
Caroline County				
Charlottesville				
Culpeper County				
Essex County				
Fauquier County				
Fluvanna County				
Fredericksburg				
Gloucester County				
Greene County				
King and Queen County				
King George County				
King William County				
Lancaster County				
Louisa County				
Madison County				
Mathews County				
Middlesex County				
Nelson County				
Northampton County				
Northumberland County				
Orange County				
Rappahannock County				
Richmond County				
Spotsylvania County				
Westmoreland County				
AQCR 225 State Capital Intrastate (Remainder of)				
Charles City County (part)	.....	Unclassifiable/Attainment		
Remainder of County				
Dinwiddie County				
Emporia				
Goochland County				
Greensville County				
New Kent County				
Petersburg				
Powhatan County				
Prince George County				
Surry County				
Sussex County				
AQCR 226 Valley of Virginia Intrastate	.....	Unclassifiable/Attainment		
Alleghany County				
Augusta County				
Bath County				
Botetourt County				
Buena Vista				
Clarke County				
Clifton Forge				

VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designation area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Covington County				
Craig County				
Floyd County				
Frederick County				
Giles County				
Harrisonburg				
Highland County				
Lexington				
Montgomery County				
Page County				
Pulaski County				
Radford				
Roanoke				
Roanoke County				
Rockbridge County				
Rockingham County				
Salem				
Shenandoah County				
Staunton				
Warren County				
Waynesboro				
Winchester				

[1] This date is October 18, 2000, unless otherwise noted.
[2] This date is January 16, 2001.

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49. In § 81.348, the table entitled ''Washington—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.348 Washington.

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WASHINGTON—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Portland-Vancouver AQMA Area:				
Clark County (part) Air Quality Maintenance Area	.....	Attainment		

WASHINGTON—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Seattle-Tacoma Area:				
The following boundary includes all of Pierce County, and all of King County except a small portion on the north-east corner and the western portion of Snohomish County: Starting at the mouth of the Nisqually river extend northwesterly along the Pierce County line to the southernmost point of the west county line of King County; thence northerly along the county line to the southernmost point of the west county line of Snohomish County; thence northerly along the county line to the intersection with SR 532; thence easterly along the north line of SR 532 to the intersection of I–5, continuing east along the same road now identified as Henning Rd., to the intersection with SR 9 at Bryant; thence continuing easterly on Bryant East Rd. and Rock Creek Rd., also identified as Grandview Rd., approximately 3 miles to the point at which it is crossed by the existing BPA electrical transmission line; thence southeasterly along the BPA transmission line approximately 8 miles to point of the crossing of the south fork of the Stillaguamish River; thence continuing in a southeasterly direction in a meander line following the bed of the River to Jordan Road; southerly along Jordan Road to the north city limits of Granite Falls; thence following the north and east city limits to 92nd St. N.E. and Menzel Lake Rd.; thence south-southeasterly along the Menzel Lake Rd. and the Lake Roesiger Rd. a distance of approximately 6 miles to the northernmost point of Lake Roesiger; thence southerly along a meander line following the middle of the Lake and Roesiger Creek to Woods Creek; thence southerly along a meander line following the bed of the Creek approximately 6 miles to the point the Creek is crossed by the existing BPA electrical transmission line; thence easterly along the BPA transmission line approximately 0.2 miles; thence southerly along the BPA Chief Joseph-Covington electrical transmission line approximately 3 miles to the north line of SR 2; thence southeasterly along SR 2 to the intersection with the east county line of King County; thence south along the county line to the northernmost point of the east county line of Pierce County; thence along the county line to the point of beginning at the mouth of the Nisqually River.	.....	Attainment		
AQCR 062 E Washington-N Idaho Interstate (part)	.....	Attainment		
Spokane County	.....	Unclassifiable/Attainment		
AQCR 062 E Washington-N Idaho Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Adams County				
Asotin County				
Columbia County				
Garfield County				
Grant County				
Lincoln County				
Whitman County				
AQCR 193 Portland Interstate (Remainder of)	.....	Unclassifiable/Attainment		
Clark County (part) Remainder of county				
Cowlitz County				
Lewis County				
Skamania County				
Wahkiakum County				
AQCR 227 Northern Washington Intrastate	.....	Unclassifiable/Attainment		
Chelan County				
Douglas County				
Ferry County				
Okanogan County				
Pend Oreille County				
Stevens County				
AQCR 228 Olympic-Northwest Washington Intrastate	.....	Unclassifiable/Attainment		
Clallam County				
Grays Harbor County				

WASHINGTON—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Island County				
Jefferson County				
Mason County				
Pacific County				
San Juan County				
Skagit County				
Thurston County				
Whatcom County				
AQCR 229 Puget Sound Intrastate (Remainder of)	.....	Unclassifiable/Attainment		
King County (Part) Remainder of County				
Kitsap County				
Snohomish County (Part) Remainder of County				
AQCR 230 South Central Washington Intrastate	.....	Unclassifiable/Attainment		
Benton County				
Franklin County				
Kittitas County				
Klickitat County				
Walla Walla County				
Yakima County				

[1] This date is October 18, 2000, unless otherwise noted.

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50. In § 81.349, the table entitled ''West Virginia—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Charleston Area:.				
Kanawha County	.....	Unclassifiable/Attainment		
Putnam County	.....	Unclassifiable/Attainment		
Greenbrier Area:				
Greenbrier County	.....	Unclassifiable/Attainment		
Huntington-Ashland Area:				
Cabell County	.....	Unclassifiable/Attainment		
Wayne County	.....	Unclassifiable/Attainment		
Parkersburg-Marietta Area:				
Wood County	.....	Unclassifiable/Attainment		
Rest of State	.....	Unclassifiable/Attainment		
Barbour County				
Berkeley County				
Boone County				
Braxton County				
Brooke County				
Calhoun County				
Clay County				
Doddridge County				
Fayette County				
Gilmer County				
Grant County				
Hampshire County				
Hancock County				
Hardy County				
Harrison County				
Jackson County				
Jefferson County				
Lewis County				
Lincoln County				
Logan County				
Marion County				
Marshall County				
Mason County				
McDowell County				
Mercer County				
Mineral County				

WEST VIRGINIA—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Mingo County				
Monongalia County				
Monroe County				
Morgan County				
Nicholas County				
Ohio County				
Pendleton County				
Pleasants County				
Pocahontas County				
Preston County				
Raleigh County				
Randolph County				
Ritchie County				
Roane County				
Summers County				
Taylor County				
Tucker County				
Tyler County				
Upshur County				
Webster County				
Wetzel County				
Wirt County				
Wyoming County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

51. In § 81.350, the table entitled ''Wisconsin—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Door County Area:				
Door County	([3])	Nonattainment	([3])	Rural Transport (Marginal).
Kewaunee County Area:				
Kewaunee County		Attainment.		
Manitowoc County Area:				
Manitowoc County	1/6/92	Nonattainment	8/22/97	Moderate. [2]
Milwaukee-Racine Area:				
Kenosha County	11/15/90	Nonattainment	11/15/90	Severe-17.
Milwaukee County	11/15/90	Nonattainment	11/15/90	Severe-17.
Ozaukee County	11/15/90	Nonattainment	11/15/90	Severe-17.
Racine County	11/15/90	Nonattainment	11/15/90	Severe-17.
Washington County	11/15/90	Nonattainment	11/15/90	Severe-17.
Waukesha County	11/15/90	Nonattainment	11/15/90	Severe-17.
Sheboygan County Area:				
Sheboygan County		Attainment		
Walworth County Area:				
Walworth County		Attainment		
Adams County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Barron County		Unclassifiable/Attainment		
Bayfield County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Buffalo County		Unclassifiable/Attainment		
Burnett County		Unclassifiable/Attainment		
Calumet County		Unclassifiable/Attainment		
Chippewa County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Columbia County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Dane County		Unclassifiable/Attainment		
Dodge County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		

WISCONSIN—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Dunn County		Unclassifiable/Attainment		
Eau Claire County		Unclassifiable/Attainment		
Florence County		Unclassifiable/Attainment		
Fond du Lac County		Unclassifiable/Attainment		
Forest County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Green Lake County		Unclassifiable/Attainment		
Iowa County		Unclassifiable/Attainment		
Iron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Juneau County		Unclassifiable/Attainment		
La Crosse County		Unclassifiable/Attainment		
Lafayette County		Unclassifiable/Attainment		
Langlade County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Marathon County		Unclassifiable/Attainment		
Marinette County		Unclassifiable/Attainment		
Marquette County		Unclassifiable/Attainment		
Menominee County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Oconto County		Unclassifiable/Attainment		
Oneida County		Unclassifiable/Attainment		
Outagamie County		Unclassifiable/Attainment		
Pepin County		Unclassifiable/Attainment		
Pierce County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Portage County		Unclassifiable/Attainment		
Price County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock County		Unclassifiable/Attainment		
Rusk County		Unclassifiable/Attainment		
St. Croix County		Unclassifiable/Attainment		
Sauk County		Unclassifiable/Attainment		
Sawyer County		Unclassifiable/Attainment		
Shawano County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Trempealeau County		Unclassifiable/Attainment		
Vernon County		Unclassifiable/Attainment		
Vilas County		Unclassifiable/Attainment		
Washburn County		Unclassifiable/Attainment		
Waupaca County		Unclassifiable/Attainment		
Waushara County		Unclassifiable/Attainment		
Winnebago County		Unclassifiable/Attainment		
Wood County		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.
[2] Attainment date temporarily delayed until November 15, 2007.
[3] This date is January 16, 2001.

* * * * *

52. In § 81.351, the table entitled ''Wyoming—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.351 Wyoming.

* * * * *

WYOMING—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Albany County				
Big Horn County				
Campbell County				
Carbon County				
Converse County				
Crook County				
Fremont County				

WYOMING—OZONE (1–HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Goshen County				
Hot Springs County				
Johnson County				
Laramie County				
Lincoln County				
Natrona County				
Niobrara County				
Park County				
Platte County				
Sheridan County				
Sublette County				
Sweetwater County				
Teton County				
Uinta County				
Washakie County				
Weston County				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

53. In § 81.352, the table entitled ''American Samoa—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.352 American Samoa.

* * * * *

AMERICAN SAMOA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

54. In § 81.353, the table entitled ''Guam—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.353 Guam.

* * * * *

GUAM—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

55. In § 81.354, the table entitled ''Northern Mariana Islands—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.354 Northern Mariana Islands.

* * * * *

NORTHERN MARIANA ISLANDS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Whole State		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

56. In § 81.355, the table entitled ''Puerto Rico—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.355 Puerto Rico.

* * * * *

PUERTO RICO—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide		Unclassifiable/Attainment		
Adjuntas Municipio				
Aguada Municipio				
Aguadilla Municipio				
Aguas Buenas Municipio				
Aibonito Municipio				
Anasco Municipio				
Arecibo Municipio				
Arroyo Municipio				
Barceloneta Municipio				
Barranquitas Munic.				
Bayamon County				
Cabo Rojo Municipio				
Caguas Municipio				
Camuy Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano County				
Cayey Municipio				
Ceiba Municipio				
Ciales Municipio				
Cidra Municipio				
Coamo Municipio				
Comerio Municipio				
Corozal Municipio				
Culebra Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guanica Municipio				
Guayama Municipio				
Guayanilla Municipio				
Guaynabo County				
Gurabo Municipio				
Hatillo Municipio				
Hormigueros Municipio				
Humacao Municipio				
Isabela Municipio				
Jayuya Municipio				
Juana Diaz Municipio				
Juncos Municipio				
Lajas Municipio				
Lares Municipio				
Las Marias Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Maricao Municipio				
Maunabo Municipio				
Mayaguez Municipio				
Moca Municipio				
Morovis Municipio				
Naguabo Municipio				
Naranjito Municipio				
Orocovis Municipio				
Patillas Minicipio				
Penuelas Municipio				
Ponce Municipio				
Quebradillas Municipio				
Rincon Municipio				
Rio Grande Municipio				
Sabana Grande Municipio				
Salinas Municipio				
San German Municipio				
San Juan Municipio				
San Lorenzo Municipio				
San Sebastian Municipio				
Santa Isabel Municipio				
Toa Alta Municipio				

PUERTO RICO—OZONE (1-HOUR STANDARD)—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Toa Baja County Trujillo Alto Municipio Utuado Municipio Vega Alta Municipio Vega Baja Municipio Vieques Municipio Villalba Municipio Yabucoa Municipio Yauco Municipio				

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

57. In § 81.356, the table entitled ''Virgin Islands—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.356 Virgin Islands.

* * * * *

VIRGIN ISLANDS—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Statewide ..... St. Croix St. John St. Thomas		Unclassifiable/Attainment		

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 4425/P.L. 106–246

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes. (July 13, 2000; 114 Stat. 511)

Last List July 12, 2000

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